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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in Lok Sabha on 20-4-2000

BILL NO. 112 OF 1999

A Bill to provide the Indian citizens living abroad with the right to vote in elections to the House of the People and the Legislative Assemblies of the States.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Indian Citizens Abroad (Voting Right at Elections) Act, 1999.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

Definitions.

(i) "Commission" means the Election Commission appointed by the President under article 324 of the Constitution;

(ii) "Electoral Officer" means Electoral Officer as provided in the Representation of the People Act, 1950; and

(iii) "prescribed" means prescribed by the rules made under this Act.

Right to vote to
Indian citizens
living abroad.

3. Notwithstanding anything contained in any other law for the time being in force,—

(i) all Indian citizens who are living abroad and who retain their Indian citizenship shall have the right to exercise their franchise in elections to the House of the People and the Legislative Assemblies of the States in the country;

(ii) the names of such Indian citizens mentioned in sub-clause (i) shall continue to be registered in the electoral rolls of the constituency in which they were residing before leaving the country; and

(iii) the Commission shall make suitable arrangements in such manner as may be prescribed, to enable the Indian citizens living abroad whose names have been entered in the electoral rolls to exercise their franchise at every election to the House of the People and the Legislative Assemblies of the States.

Diplomatic and
Consular
Officer to assist
Election
Commission.

4. The Head of Diplomatic Mission or Consular Officer of the Government of India, as the case may be, in a foreign country shall be designated as an Electoral Officer, who shall act in aid of Commission in the discharge of its functions under section 3.

Commission to
prepare
electoral rolls
of Indian
citizens living
abroad.

5. (1) The Commission shall prepare separate electoral rolls of Indian citizens living abroad for each constituency referred to in section 3.

(2) A copy of the electoral rolls as prepared under clause (1) shall be sent to all Heads of Diplomatic Missions or Consular Officers of the Government of India.

Power to make
rules.

6. (1) The Central Government may make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

(a) the registration, preparation and publication of the voters' list of the Indian citizens living abroad; and

(b) any other matters which is to be or may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Indian citizens living in foreign countries are taking keen interest in the affairs of the country. Their interests in various developmental schemes including their contribution in the mobilisation of resources for India are commendable. But it is a matter of regret that in the absence of statutory provisions, they have no right to exercise their franchise in the elections to the State Legislatures and Parliament held in the country.

Since the names of most of these Indian nationals are not entered in the electoral rolls of the constituencies in which they were residing before leaving the country, they are not able to exercise their franchise. They do not have any facility to receive the ballot paper in the countries they are living to cast their votes in the elections to the State Legislatures and to the Parliament.

In view of the vital role they play in the affairs of the country, those Indian nationals living abroad and who have retained their Indian citizenship should be given the right to vote and necessary arrangements should be made for registering them as voters in the constituencies they were residing before leaving the country. This step would fulfil the aspirations of the Indian citizens living abroad.

This Bill seeks to achieve this objective.

NEW DELHI;
November 13, 1999.

E. AHAMED

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for making suitable arrangements to enable the Indian citizens living abroad to exercise their franchise at elections to Lok Sabha and State Legislatures. Clause 5 provides that the Election Commission shall prepare separate electoral rolls of Indian citizens living abroad. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty lakh per annum.

A non-recurring expenditure to the tune of rupees ten lakhs is also likely to be involved.

BILL NO. 115 OF 1999

A Bill to provide for setting up a fund for the welfare of unorganised labour.

BE it enacted by Parliament in the Fiftieth Year of the Republic of India as follows:—

1. (1) This Act may be called the Unorganised Labour Welfare Fund Act, 1999.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context—

Definitions.

(a) "employer" means any person who employs whether directly or indirectly or through another person, or whether on behalf of himself or any other person, one or more employees who come within the definition of "organised labour" given in clause (6) of this section;

(b) "organised labour" means and includes all labour unions which have been recognised by or under the authority of the Trade Unions Act, 1926;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "unorganised labour" means any class of person employed for hire or reward to do any work, skilled or unskilled, manual or clerical and includes any class of out-workers to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of trade or business of that other person where the process is to be carried out either in the home of the out-workers or in some other premises not being premises under the control and management of that other person and also includes agricultural labour; and

(e) "welfare fund" means the welfare fund set up for the welfare of unorganised labour under this Act.

Unorganised
labour welfare
fund.

3. The Central Government shall, by notification in the Official Gazette, create a fund to be known as Unorganised Labour Welfare Fund which shall be administered in such manner as the Central Government may prescribe.

Contribution by
members of
organised
labour.

4. Every member of organised labour who is in receipt of total emoluments of not less than Rs. 1,000/- per mensem, shall contribute one per cent. of his total emoluments to the welfare fund.

Contribution
by Central
Government,
States and Union
territories.

5. The Central Government shall contribute to the welfare fund to the extent of twenty-five per cent. of the total annual contribution collected from the organised labour while every State and Union territory shall contribute to the extent of twenty-five per cent. of the total contributions collected in the respective State or Union territory.

Duty of
employer.

6. It shall be the duty of every employer to deduct the amount referred to in section 4 from the emoluments paid to a member of organised labour and deposit the total amount so deducted to the welfare fund in the prescribed manner.

Utilisation of
fund.

7. All moneys received in the welfare fund shall be utilised for the welfare of the unorganised labour in such manner as the Central Government may prescribe, with the purpose of organising such labour to come progressively within the purview of organised labour.

Power to create
posts and make
appointments.

8. The Central Government shall have power to create posts and appoint persons to such posts in the prescribed manner for the proper administration of the welfare fund.

Advisory
Committee.

9. (1) The Central Government shall, in consultation with the Government of the respective State or Union territory, as the case may be, appoint advisory committee for every State and Union territory to advise the Central Government for administering the welfare fund.

(2) The terms and conditions of appointment of advisory committee and their members shall be such as may be prescribed.

Punishment.

10. Whoever contravenes the provisions of this Act or the rules made thereunder shall, if he is an employer, be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five thousand rupees or with both; and if he is a member of organised labour for a term of ten days or with fine which may extend to twice the amount of contribution he is liable to pay under this Act.

Power to make
rules.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner for deducting the amount to be contributed by a member of organised labour under section 4 of this Act and for depositing it in the welfare fund by the employer;

- (b) prescribe the manner for administering the welfare fund;
- (c) prescribe the manner for utilisation of moneys received in the welfare fund;
- (d) prescribe terms and conditions of persons appointed to administer the welfare fund;
- (e) prescribe the mode and manner of constitution of State Advisory Committees and the terms and conditions of appointment of the members thereof; and
- (f) provide for any other matter which is to be or may be prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

For quite some time the minds of the legislators, public workers, leaders and other learned persons are agitated over the fact that although the organised labour, through its power of strike/agitation manages to get its demands, reasonable or unreasonable, fulfilled but the unorganised labour which constitutes the major chunk of working classes in the country, feels helpless in getting its reasonable demands for minimum wages etc. fulfilled. It is, therefore, the duty of every member of organised labour class as well as of the Governments at the Centre, States and Union territories to contribute their mite to the welfare of unorganised labour.

The Bill seeks to provide for a modality through which organised labour class as well as the Governments at the Centre, States and Union territories are required to contribute to the welfare of their brethren scattered all over the country in an unorganised manner.

NEW DELHI;
November 16, 1999.

E. AHAMED

FINANCIAL MEMORANDUM

Clause 3 of the Bill seeks to create a fund for the welfare of unorganised labour. Clause 5 of the Bill provides that the Central Government shall contribute twenty-five per cent. of the total annual contribution collected from organised labour to the Unorganised Labour Welfare Fund. Clause 8 of the Bill empowers the Central Government to appoint persons to posts to be created by it for the proper administration of the fund. Clause 9 of the Bill provides for appointment of advisory committees for the States and Union territories to advise the Central Government for administering the welfare fund. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees ten lakh per annum and non-recurring expenditure of rupees five lakh per annum.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Act. The delegation of legislative power is of a normal character.

BILL NO. 29 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

- | | |
|---|---|
| Short title. | 1. This Act may be called the Constitution (Amendment) Act, 2000. |
| Amendment of article 16. | 2. In article 16 of the Constitution, clause (4A) shall be omitted. |
| Insertion of new Article 16A. | 3. After article 16 of the Constitution, the following article shall be inserted, namely:— |
| Reservation for the Scheduled Castes and Scheduled Tribes in post and services under the State. | "16A. (1) Nothing in this Constitution shall prevent the State from making any provision for reservation in matters of appointment, promotion or upgradation to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the States, are not adequately represented in the services under the State. |

(2) A person belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, and who has been promoted to any post in connection with the affairs of the State shall be entitled to count his seniority in that post from the date of such promotion.

(3) Nothing in this Constitution shall prevent the State from making any provision in favour of the Scheduled Castes and the Scheduled Tribes, which prescribes for relaxation in qualifications or qualifying marks in any examination or lowering the standards of evaluation for reservation in matters of recruitment or promotion to any class or classes of posts or services in connection with the affairs of the State.

(4) Notwithstanding anything in this Constitution, the State may by law provide reservation to the Scheduled Castes and the Scheduled Tribes in private sector, subject to such conditions as may be specified in the law made in this regard.

(5) Nothing in this Constitution shall prohibit the State from reserving more than fifty percent. of the posts or vacancies in a recruitment year and from conducting special recruitment drive in order to fill up backlog posts or vacancies for appointment or promotion or appointment by transfer or upgradation in a service in an establishment under the State.

(6) Nothing in this Constitution shall prevent the State from making provision for clubbing the posts carrying equal scale of pay, duties or responsibility and to provide reservation in favour of the Scheduled Castes and the Scheduled Tribes.

(7) The provisions of this article shall have effect notwithstanding anything contained in any judgement or decree or order or direction of a Court of Law or Tribunal or Authority having judicial powers to the contrary."

4. After article 29 of the Constitution, the following article shall be inserted, namely,—

"29A. (1) There shall be reservation in favour of the Scheduled Castes and the Scheduled Tribes in all educational institutions in all courses of study including advanced courses of study and professional courses in all categories or disciplines, subject to any law that may be made specifying the qualifications and eligibility norms including the percentage of reservation or relaxation to ensure filling up of all seats.

(2) The provisions of the article shall have effect notwithstanding anything contained in any judgement or decree or order or direction of any Court of Law or Tribunal or Authority having judicial powers to the contrary."

Insertion of
new article
29A.

Reservation
for the
Scheduled
Castes and the
Scheduled
Tribes in all
educational
institutions.

STATEMENT OF OBJECTS AND REASONS

The Preamble of the Constitution assures every citizen equality of status and of opportunity and secures justice—social and economic which has been declared in S.R. Bommai's case as basic structure of the Constitution.

Article 46 enjoins that the State shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice.

Article 38 directs that the State to secure social order for promotion of the Welfare of the people by securing and protecting an effective social order in which social, economic and political justice shall inform all the institutions of national life and that the State, in particular, shall strive to minimise the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunities among individuals as well as groups of the people.

Article 51-A imposes fundamental duty on every citizen to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

The persons belonging to the Scheduled Castes and Scheduled Tribes are the most disadvantaged and deprived weaker sections of the society. It is the duty of the State to take care of them to minimise the inequalities in status, facilities and opportunities by effectively implementing the directives in the Constitution to enable them to reap social and economic justice, secure equality of opportunity and of status and to enjoy dignity.

To increase the chances/avenues of appointment/promotion in posts and services under the State and in Public Sector to the Scheduled Castes/Scheduled Tribes it is necessary to make an express provision in the Constitution itself.

Even after 50 years since Constitution came into force, the Scheduled Castes/Scheduled Tribes did not have proper representation for variegated reasons in various posts or classes of post or appointments in connection with the affairs of the State.

Due to social, educational and economic backwardness and other disadvantages and disabilities, the Scheduled Castes and the Scheduled Tribes are not able to compete on equal merit with the general category candidates.

The recent judgement of the Supreme Court in *Indira Sawhney versus Union of India* 1992 Supplement 3 SCC 217, *Dr. Preeti Srivastava versus State of Madhya Pradesh* 1999, 7 SCC (page 120), and *Ajit Singh and Others (II) versus State of Punjab* 1A 1-3 in Civil Appeal No. 3782-94 of 1999 etc. dated September 16, 1999 caused hindrance to the Government for effectively implementing the policy of reservation in imparting of education in all courses of study, in particular, at the stages of higher learning, specialities, super-specialities, technical, scientific courses, etc.

Therefore, with a view to give effect to the constitutional objectives referred to above, it has become a necessity to suitably amend the Constitution in order to implement the reservation policy effectively.

NEW DELHI;
December 23, 1999

RASHTRAPAL PRAVINCHANDRA SOMABHAI

BILL NO. 24 OF 2000

A Bill to provide for reservation in services for the Scheduled Castes and the Scheduled Tribes in establishments under the Central and State Governments and in private sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Scheduled Castes and Scheduled Tribes (Reservation in Services) Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force at once.

(4) It shall apply to every establishment as defined in this Act.

2. In this Act unless the context otherwise requires,—

(a) appropriate Government means the Central Government or a State Government as the case may be;

Short title
extent,
commence-
ment and
application.

Definitions.

(b) "establishment" means any office under the control of the appropriate Government, the Parliament of India, Comptroller and Auditor General of India, Election Commission, Union Public Service Commission, all local bodies or other authorities within the territory of India and under the control of the appropriate Government, Public Sector Banks, Public Sector Undertakings, Statutory Authorities, Autonomous bodies or Authority constituted under an Act of Parliament, registered or deemed to have been registered under any Act of Parliament or Universities recognised/affiliated by an Act of Parliament or a State Act or educational institutions receiving grant-in-aid from the appropriate Government, partnership, Act, 1932, firm registered under Indian Partnership Act, 1932 a Company registered under the Companies Act, 1956 a Trust registered under Indian Trusts Act, 1882 and Co-operative Societies registered under the Co-operative Societies Act, 1912 or deemed to have been registered under that Act and receiving loan or grant in lump sum, financial assistance or concessions from the appropriate Government or any Nationalised Bank, Financial Corporation managed or controlled by the appropriate Government, constituted or body corporate under any Act of Parliament or maintained by or with the help of the appropriate Government or where appropriate Government has majority share capital in an establishment;

9 of 1932

1 of 1956

2 of 1882

2 of 1912

(c) "notification" means a notification issued under the Act and published in the Official Gazette of India;

(d) "prescribed" means prescribed by rules made under this Act or are in force but not inconsistent with this Act or rules made thereunder;

(e) "prescribed authority" means Department of Personnel and Training of the appropriate Government or Secretary to the appropriate Government or any other Department, Nodal Ministry or Head of the Department or appointing authority in any establishment, or as may be specified in the appropriate rules, regulations, or instructions applicable to the establishment;

(f) "recruitment year" means the calendar year during which recruitment is made and include part of an year preceding the recruitment, if recruitment is made more than once within a year as per the procedure or as defined in the relevant recruitment rules or regulations or rules made under the proviso to article 309 of the Constitution of India and applied to that establishment;

(g) "rules" means rules made under this Act and instructions/directions/orders issued under this Act or of those existing but not inconsistent with this Act and rules;

(h) "Scheduled Castes and Scheduled Tribes" shall have the same meanings assigned to them, respectively, under clause (24) and clause (25) of article 366 of the Constitution of India and notified by the President of India under articles 341(1) and 342(1) and as amended from time to time;

(i) "service" means any post or classes of posts in connection with the affairs of the establishment.

Reservation
for the
Scheduled
Castes and the
Scheduled
Tribes in posts
and classes of
posts and
percentage of
reservation.

3. (1) There shall be reservation in every establishment for the Scheduled Castes and the Scheduled Tribes in all posts or classes of posts, including single post in a service, at all levels of recruitment, appointment, promotion or upgradation, except those exempted from the purview of the Act with prior approval of both Houses of Parliament.

(2) The percentage of reservation in posts or classes of posts for the Scheduled Castes and the Scheduled Tribes in sub-section (1) shall be in the ratio of the proportion of their population to the total population of the country in accordance with latest census but not less than fifteen per cent for the Scheduled Castes and seven and a half per cent. for the Scheduled Tribes, respectively, or at such higher percentage as is applicable to the concerned establishment in case the recruitment, promotion or upgradation is made on the regional basis.

Explanation:—'census' for the purpose of this Act, will be treated complete if it had covered more than seventy per cent. of the total population of the country, irrespective of the fact that it remained incomplete in one or more States wholly or partially for any reason whatsoever.

(3) The posts or classes of posts reserved for the Scheduled Castes and the Scheduled Tribes shall be filled in such manner as may be prescribed.

(4) The posts or classes of posts reserved for the Scheduled Castes and the Scheduled Tribes shall be filled by candidates belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, and shall not be filled up by the general category candidates.

(5) The unfilled reserved posts or classes of posts for whatever cause may be, shall not be dereserved and shall be carried forward from time to time:

Provided that in case required number of candidate belonging to the Scheduled Tribes are not selected or not available to fill up the posts or classes of posts reserved for such category, the same shall be filled up by candidates belonging to the Scheduled Castes and vice-versa:

Provided further that in subsequent recruitment, in case a candidate belonging to the Scheduled Tribes is selected, he shall be appointed and adjusted in quota reserved for the Scheduled Castes and the balance of the prescribed percentage of reservation shall always be maintained.

4. Notwithstanding anything contained in any law, judgement or decree or order or direction of a Court of Law or Tribunal or Authority having judicial powers.

(1) a candidate belonging to the Scheduled Castes or Scheduled Tribes selected on merit basis shall not be barred to avail the benefit of relaxed evaluation or concession for consideration at a later stage to a reserved post;

(2) a candidate belonging to the Scheduled Castes or the Scheduled Tribes selected on merit basis in a direct recruitment or promotion or upgradation or appointment by transfer, shall have his *inter-se* seniority on such post with general candidates and he shall be eligible for consideration for reserved posts in future;

(3) the candidates belonging to the Scheduled Castes and the Scheduled Tribes appointed or promoted to reserved posts shall be entitled for seniority, from the date of such appointment or promotion or upgradation and adjusted in the service as per the roster maintained in the establishment concerned at each stage of appointment or promotion or upgradation irrespective of the roster points occupied in the immediate lower cadre/posts as the case may be and the roster shall be treated as seniority for general as well as reserved candidates.

5. The appropriate Government or the State Government or an establishment shall—

(1) fill up backlog vacancies reserved for the Scheduled Castes and the Scheduled Tribes by special recruitment drive or promotion or upgradation without clubbing the current vacant post(s) or vacancy(ies);

(2) make provision for relaxation, prescribe lower qualifying marks or lesser standards of evaluation or relax experience for direct recruitment, promotion, upgradation for the candidates belonging to the Scheduled Castes and the Scheduled Tribes to secure their full representation in any cadre or grade or category in service;

(3) make provision for relaxation in upper age limit in favour of candidates belonging to the Scheduled Castes and the Scheduled Tribes for appointments in any service as may be prescribed;

Determination of inter-se seniority of candidates belonging to the Scheduled Castes and the Scheduled Tribes.

Special recruitment drive for filling up of reserved backlog vacancies and certain other benefits to the Scheduled Castes and Scheduled Tribes.

(4) exempt payment of any fee for taking an examination to such extent as may be prescribed in case of candidates belonging to the Scheduled Castes and the Scheduled Tribes;

(5) pay travelling allowances to candidates belonging to the Scheduled Castes and the Scheduled Tribes called for interview as may be determined from time to time;

(6) club single posts carrying equal scale of pay or responsibility or duty in an establishment to provide reservation for the Scheduled Castes and the Scheduled Tribes in appointment or promotion or upgradation in accordance with the provisions of this Act.

Roster.

6. (1) The roster points earmarked for the Scheduled Castes and the Scheduled Tribes, as the case may be shall remain in force as was in operation before the judgement of the Supreme Court of India in *R.K. Sabarwal versus State of Punjab* (1995)2 SCC 745;

(2) The roster shall be applied for a single post in an establishment and if a candidate belonging to the Scheduled Castes or the Scheduled Tribes is available at the roster point at the time of vacancy and he is found selected, he may be appointed;

(3) On appointment by promotion/upgradation to a higher post in a cadre / grade / service / category on regular basis according to rules, the seniority of the promotee belonging to the Scheduled Castes or the Scheduled Tribes shall be fixed in the appropriate roster point earmarked for the respective reserved category and the seniority of such a promotee shall be according to the roster in the promoted cadre or grade or service and the roster in the lower cadre or grade or service shall cease to have application from the date of promotion or upgradation on regular basis;

(4) A senior employee belonging to general category in lower cadre or grade or service, on promotion or upgradation to the next higher cadre or grade or service shall not gain seniority over the earlier promoted employee belonging to reserved category who is junior to him and the *inter-se* seniority between reserved and general category employees shall be determined from the respective dates of promotion or upgradation, irrespective of seniority or juniority position they had in the lower cadre or grade or category.

Responsibility for implementation of the Act.

7. The Head of the establishment and if the appointing authority is higher in rank than Head of the establishment, the appointing authority shall be responsible for implementation of this Act.

Act done in good faith.

8. No suit, prosecution or other legal proceedings shall lie against any establishment or other person responsible for implementation and application of the Act or anything which is done in good faith in pursuance of this Act or rules or order made thereunder or applicable in respect thereto.

Appointments of Liaison Officers in every establishment.

9. Every establishment shall nominate one or more officers of such rank or ranks as may be prescribed to act as liaison officers from among the Scheduled Castes and the Scheduled Tribes, who shall, in particular, be responsible for:—

(a) coordination and strict implementation of the provisions of this Act and rules, instructions or directions issued thereunder, in their true spirit and purpose and to achieve its object;

(b) submission of the report and returns to the appropriate Government within the prescribed period;

(c) conducting annual inspection of the records of the establishments in such manner as may be prescribed;

(d) doing such other incidental work or act, as may be necessary, for the above purposes.

10. (1) Every establishment shall maintain such records as may be prescribed and shall furnish every year to the appropriate Government in such manner and at such time as may be prescribed, an annual report on appointments and promotion or upgradation of candidates belonging to the Scheduled Castes and the Scheduled Tribes made by it during the previous year and number of unfilled posts or vacancies and the steps taken to fill up the posts or vacancies and reasons for not filling them up.

Submission of annual report and maintenance thereof.

(2) An officer authorised by the appropriate Government in this behalf not below the rank of Director in the Ministry concerned may inspect any records or documents maintained in the establishment of the recruitment, appointment and promotion or upgradation of candidates belonging to the Scheduled Castes and the Scheduled Tribes in an establishment:

Provided that if an officer of equal rank or status to that of Director belonging to the Scheduled Castes or the Scheduled Tribes, as the case may be, is available, he shall be authorised for inspection and reporting.

(3) It shall be the duty of the Head of the establishment to make available such records or documents for inspection by the authorised officer under sub-section (2) and furnish such information or extend and arrange such assistance, as may be necessary, for him to carry out his functions under this Act.

11. Whosoever responsible for implementation of the Act contravenes the provisions of this Act, shall be punishable with imprisonment which may extend upto six months or fine of not less than rupees ten thousand or both and fine shall be recoverable from pay of such person:

Penalty for contravention of this Act.

Provided that nothing in this section shall render any person liable to punishment, if he proves that he had made very bonafide and sincere endeavour or exercised utmost care, attention, diligence and devotion to implement the provisions of the Act or rules or orders or directions issued under this Act or presently in force but not inconsistent with this Act and rules.

12. (1) Any person claiming to be a member of the Scheduled Castes or the Scheduled Tribes, as the case may be has applied for recruitment/seeks promotion or upgradation shall file an affidavit duly attested by a gazetted officer of the appropriate Government or a judicial Magistrate of the First Class and above rank as per the instruction of the Central Government as prescribed in the Schedule, that he by birth belongs to the Scheduled Castes or the Scheduled Tribes, as the case may be, and continues to be a member of the Scheduled Castes or the Scheduled Tribes and if that person had already obtained a certificate from a competent officer or authority in the prescribed format that he belongs to the Scheduled Castes or the Scheduled Tribes, as the case may be the original certificate shall be produced at the time of selection.

Caste certificate and verification.

(2) As soon as appointment in any post or office or service has been made in case of a candidate belonging to the Scheduled Castes or the Scheduled Tribes, the appointing authority shall immediately send the affidavit and the original Caste certificate and application for recruitment or promotion or upgradation to the Director of the Social or Tribal Welfare Department for verification and prompt reporting to the establishment.

(3) On receipt of the record from the establishment, the Director, Social Welfare or Tribal Welfare Department himself or by his authorised officer shall verify or cause verification of the correctness of the social status of the candidate and shall report back within three months from the date of the receipt of the record to the appointing authority/ Head of the Department of the establishment, of the correctness or otherwise of the social status of the candidate who has been appointed.

(4) In case the report is adverse to the appointee, the appointing authority shall immediately issue a show cause notice to the appointee together with a copy of the report received from the Director, Social Welfare or Tribal Welfare Department of the appropriate Government calling for an explanation within a specified time and on receipt of the

explanation, if any, within the specified or extended time, it shall take appropriate action within a period of one month as per the rules or in accordance with the principles of natural justice and pass appropriate orders as the case may be.

(5) An appeal shall lie against the impugned order passed by the Head of the Department if it is the appointing authority, to the immediate higher authority who shall, after giving an opportunity of hearing in person to an aggrieved employee, decide the same within three months from the date of filing of the appeal and the decision shall be final and binding on the appointee.

(6) Whosoever knowingly makes a false claim that he is a member of the Scheduled Castes or the Scheduled Tribes, as the case may be, and whosoever charged with the responsibility of issuing a certificate or attesting an affidavit knowingly issues a false Caste certificate or attests an affidavit, and if proved that the person is not a member of the Scheduled Castes or the Scheduled Tribes, as the case may be, shall be punishable with imprisonment of not less than three years or fine which may extend to rupees twenty thousand or with both.

(7) The conviction under sub-section (6) shall be also a disqualification for appointments in any establishment under the appropriate Government.

Cognizance
and trial of the
offences under
this Act.

13. (1) No prosecution for any offence under this Act shall be maintainable against an officer except by, or with the sanction of the Competent officer with prior approval of the National Commission for Scheduled Castes and Scheduled Tribes constituted under article 338 of the Constitution of India who shall have the authority to examine whether the conclusion of *prima facie* violation of the Act is proved from record or not.

(2) No court, inferior to that of a Metropolitan Magistrate or a judicial Magistrate of the First Class shall try an offence punishable under this Act.

(3) An offence under this Act shall be cognizable and non-bailable.

Saving of
existing
directions etc.,
issued by the
Central
Government.

14. All instructions, directions and orders issued by the prescribed authority relating to the reservation of posts/classes of posts or vacancies in services etc. including relaxation, concessions and safeguards for the Scheduled Castes and the Scheduled Tribes existing immediately before the judgement in the case of *Indira Sawhney versus Central Government 1992, Supplement 3 SCC 217* in respect of which there is no express provision in this Act, in so far as they are not consistent with the provisions of this Act, shall continue to be in force, unless withdrawn or superseded in the meanwhile with prior approval of both the Houses of the Parliament.

Power of
Central
Government to
give
directions.

15. Every establishment shall be bound by the Act, rules or such existing rules, directions/instructions by whatever name may be called not contrary to or inconsistent with the provisions of this Act or as the Central Government may by general or special order, prescribe from time to time to give effect to the provisions of this Act.

Act to have
over-riding
effect.

16. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, order, judgement or decree of any Court, Tribunal or authority for the time being in force or any instrument/ instruction having effect by virtue of any law, other than this Act.

Removal of
difficulties.

17. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty.

(2) Every rule, instruction or direction or order made under sub-section (1) shall, as soon as may be, after it is so made, be laid before each House of Parliament.

Laying of
Annual Report.

18. The Central Government shall in every two years, lay before each House of Parliament, a report giving full account of the implementation of the Act during the preceding two years.

19. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act. Power to make rules.

(2) In particular, and without prejudice to the generality of the fore-going powers, such provisions may provide for all or any of the following matters, namely:—

(a) the percentages of posts to be reserved in services for the members of the Scheduled Castes and the Scheduled Tribes which shall be not less than fifteen percent, and seven and a half percent, respectively;

(b) the manner of filling the posts reserved for the Scheduled Castes and the Scheduled Tribes;

(c) relaxation of upper age limit;

(d) exemption of fee for applying to the recruitment to a service;

(e) the authority to determine the travelling allowances;

(f) rank of officer to be nominated as liaison officer;

(g) the manner of conducting annual inspection of records;

(h) the records to be maintained by an establishment and the manner in which and the time at which an annual report on the appointment, etc. of the Scheduled Castes and the Scheduled Tribes made during the previous year to be furnished;

(i) the authority to sanction prosecution for violation of the provisions of the Act;

(j) form of affidavit of the candidate and form of affidavit of the candidate and the manner of attestation;

(k) procedure for inquiry by the appointing authority and appellate authority;

(l) any other matter, which is required to be, or may be prescribed.

(3) Every rule or instruction or direction made under this Act shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or instruction or direction both Houses agree that the rule should not be made, the rule or instruction or direction shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under this rule or instruction or direction.

SCHEDULE

AFFIDAVIT

I, _____ son / daughter of _____ of
 Village / Town _____ within the jurisdiction of _____ Police
 Station in _____ Taluk / Mandal _____ in
 the District/Division _____ of the State/ 'Union Territory' _____
 belong to _____ Community / Caste / Tribe which is recognised
 in item No. _____ as the Scheduled Caste / Scheduled Tribe
 under the Constitution (Scheduled Caste/Scheduled Tribe) Order, 1950 as amended from
 time to time by the Scheduled Caste/ Scheduled Tribe List Modification Order, 1956, the
 Bombay Reorganisation Act, 1960, the Punjab Reorganisation Act, 1966, the State of
 Himachal Pradesh Act, 1970, the North-Eastern Areas (Reorganisation), 1971
 and the Scheduled Caste/Scheduled Tribe Order Amendment Act, 1976.

I, _____ son/daughter of _____ further
 state that myself and my parents ordinarily/normally reside in the said Village/ Town and
 within the jurisdiction of _____ Police Station in _____
 _____ Taluk/Mandal _____ in the District/Division
 _____ of the _____ State/Union Territory. I, further
 solemnly verify and state that the facts stated above are true and correct to the best of my
 knowledge and belief and no part of the statement is incorrect or false.

Signature

Attested by Gazetted Officer

Note : In case the candidate is son/daughter of a migrant labourer/transferee, it should
 further be stated in the affidavit the date of migration/transfer and the duration of
 stay in the migrated/transferred State in which the Caste/Tribe was not recognised
 as a Scheduled Caste/Scheduled Tribe.

The following are eligible to attest the affidavit:

(1) District Magistrate/Additional District Magistrate/Collector/Deputy
 Commissioner/Additional Deputy Commissioner/Deputy Collector/First Class Stipendary
 Magistrate/Sub Divisional Magistrate/Taluk Magistrate/Executive Magistrate/Extra Assistant
 Commissioner.

(2) Chief Presidency Magistrate/Additional Chief Presidency Magistrate/Presidency
 Magistrate.

(3) Revenue Officer not below the rank of Tehsildar and

(4) Sub-Divisional Officer/Mandal, Revenue/Development Officer of the area where
 the candidate and/or his family normally resides.

STATEMENT OF OBJECTS AND REASONS

The preamble of the Constitution assures social and economic justice, equality of status and of opportunity to every citizen.

Article 38 imposes duty on the State to strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice Social, economic and political shall inform all the institutions of the national life in particular strive to and endeavour to eliminate inequalities in status, facilities and opportunities among individuals and the groups of people.

Article 46 enjoins the State to promote with special care, economic interest, in particular, of the Scheduled Castes and the Scheduled Tribes and shall protect them from social injustice.

Article 335 mandates that the claims of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration consistently with efficiency of administration in making of appointment to services and posts under the State.

Even after fifty-three years of independence the Scheduled Castes and the Scheduled Tribes do not have proper representation in all the services under the State.

The Supreme Court of India in *Indra Sawhney versus Union of India* case has opined that reservation in specialised posts in engineering, medical, military etc. shall not be made.

In *Ajit Singh-II* case the Supreme Court held that the Scheduled Castes and the Scheduled Tribes promoted to reserved quota posts shall not be entitled to seniority from the date of promotion till the erstwhile senior general candidates are promoted.

It was also held that the Scheduled Castes and the Scheduled Tribes promotees have no fundamental right to promotion though article 16(4A) guarantees such right while declaring the general candidates have right to promotion as a fundamental right impeding the phase of providing proper representation to the Scheduled Castes and the Scheduled Tribes in all services and posts under the State.

It was also held that the roster points in the lower cadre of the reserved candidates on promotion should not be delinked. In *Narsihman and Telecommunication cases*, the Supreme Court opined that reservation in single post is violative of article 14 of the Constitution. In *Ajit Singh-II* case the Supreme Court had held that the facilities and opportunities in relaxed standards for consideration of the claims of the reserve candidates for appointment or promotion to a service or a post is illegal. The Department of Personnel, Public Grievances and Pension in purported implementation of the above judgements of the Supreme Court issued various orders nullifying the effective implementation of the reservation in the letter and spirit of the Constitutional mandate.

It has been the policy of the Central Government that reservation in services/posts under the Central Government etc. is one of the policies to provide equality of opportunity and of status, economic and social justice to the Scheduled Castes and the Scheduled Tribes.

The aforesaid judgements defeat the object of the Constitution and the policy of the State in securing proper and adequate representation to the Scheduled Caste and the Scheduled Tribe in various posts and services under the State.

Every opportunity to the Scheduled Castes and the Scheduled Tribes should be provided to remove social inequality and economic empowerment be given to secure equality to status and dignity of individual.

After adopting liberal economy and private investment in Public Sector Undertakings, it has become a necessity to provide opportunity of employment to the Scheduled Castes and the Scheduled Tribes in the services and posts in the private sector also.

With a view to remove the injustice being meted out to the Scheduled Castes and the Scheduled Tribes in implementation and enforcement of the policy of reservation in services under the State. It is necessary to enact a law to that effect.

Hence this Bill.

NEW DELHI;
December 23, 1999.

RASHTRAPAL PRAVINCHANDRA SOMABHAI

FINANCIAL MEMORANDUM

No additional or fresh recurring or non-recurring expenditure is likely to be involved from the Consolidated Fund of India since the existing concerned Departments and Ministries are already implementing the reservation scheme in services.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 19 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

BILL NO. 19 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment
of the Eighth
Schedule.

2. In the Eighth Schedule to the Constitution,—

- (a) entries 15 to 18 shall be re-numbered as entries 16 to 19 respectively; and
- (b) before entry "16" as so re-numbered, the entry "15. Santhali." shall be inserted.

STATEMENT OF OBJECTS AND REASONS

Santhali is a very rich and popular language of Santhal tribes who reside in many parts of the country especially in West Bengal, Bihar and Orissa. The language has its own script and literature and has eminent scholars. The tribe is trying to get due recognition to their language for a long time. To give justice and in view of their economic and social background, it is imperative that their language should get due recognition without any further delay. Hence it is proposed in the Bill that the Santhali language be included in the list of Eighth Schedule to the Constitution.

The Bill seeks to achieve the above objective.

NEW DELHI;
February 3, 2000.

BASUDEB ACHARIA

BILL No. 27 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment of
article 81.

2. In article 81 of the Constitution,—

(a) for clause (1), the following clause shall be substituted, namely:—

“(1) Subject to the provisions of clause (4) and article 331, the House of the People shall consist of—

(a) not more than five hundred and thirty members chosen by direct election from the territorial constituencies in the States;

(b) not more than twenty members to represent the Union territories, chosen in such manner as Parliament may by law provide; and

(c) not more than two hundred and seventy five members chosen according to the list system in such manner as the Parliament may by law provide to ensure proportional representation to political parties as may be registered with the Election Commission of India and as may have secured at least one seat in the House of the People by direct election in accordance with sub-clause (a) or sub-clause (b).”

(b) in clause (3) in proviso, for the figure ‘2000’, the figure ‘2025’ shall be substituted.

(c) after clause (3) the following clause shall be inserted, namely:—

“(4) For the purposes of clause (1), the Parliament may by law provide proportionate representation in the House of the People for Scheduled Castes, Scheduled Tribes, Other Backward Classes and each of the minorities, in proportion to the population of each of them and the total strength of the House of the People.

Explanation: In this clause,—

(a) the expression Other Backward Classes shall mean such castes, classes or groups as may be recognised as other backward classes by the Central Government by notification in the Official Gazette;

(b) the expression minorities shall mean and include Muslims, Christians, Sikhs and such other groups or communities as may be recognised as “minorities” by the Central Government by notification in the Official Gazette.”.

3. In article 170 of the Constitution,—

Amend-
ment of
article
170.

(a) for clause (1), the following clause shall be substituted, namely:—

“(1) Subject to the provisions of clause (4) and article 333, the Legislative Assembly of each State shall consist of—

(a) not more than five hundred and not less than sixty, members chosen by direct election from the territorial constituencies in the State; and

(b) such additional number of members as may be chosen according to the list system in such manner as the Parliament may by law provide to ensure proportional representation to political parties as may be registered with the Election Commission of India and as may have secured at least one seat in the State Legislative Assembly concerned by direct election in accordance with sub-clause (a):

Provided that the number of members chosen according to the list system shall not exceed fifty per cent. of the strength of the Legislative Assembly by direct election pursuant to sub-clause (a).”.

(b) after clause (3) the following clause shall be inserted, namely:—

“(4) For the purposes of clause (1), the Parliament may by law provide proportionate representation in the Legislative Assembly of each State for Scheduled Castes, Scheduled Tribes, Other Backward Classes and each of the minorities, in proportion to the population of each of them in the respective State and the total strength of the Legislative Assembly concerned:

Explanation: In this clause,—

(a) the expression “Other Backward Classes” shall mean such castes, classes or groups as may be recognised as “other backward classes” by the Central Government or the State Government concerned by notification in the Official Gazette.

(b) the expression “minorities” shall mean and include Muslims, Christians, Sikhs and such other groups or communities as may be recognised as “minorities” by the Central Government or the State Government by notification in the Official Gazette.”.

STATEMENT OF OBJECTS AND REASONS

India follows the First-past-the post (FPP) system of election. The candidate who secures the highest number of votes among the contesting candidates in a territorial constituency is declared elected. The operation of this electoral system leads to serious distortions in "vote-seat relationship". The reform of our electoral system is much overdue.

Not only have the polls to be just and fair, but the electoral system itself needs to be fair in its outcome. The basics of the electoral system require the system to reduce disproportionality be highly proportional and represent the wishes of the electorate as effectively as possible.

As an initial step towards the reform of our electoral system, the Bill amends the Constitution to provide for a combination of the List System under the method of proportional representation and the existing FPP system for elections to the Lok Sabha and the State Legislative Assemblies while the members as per the present strength of the Lok Sabha and the Assemblies will continue to be elected according to the FPP, an additional fifty per cent of the members will be elected according to the List System.

Further, in case of the direct election from the territorial constituencies, the Bill freezes the number and distribution of seats in the Lok Sabha among the States for another twenty five years, that is, till 2025. This is to avoid a peculiar adverse situation against some States which have witnessed decline in their population, if the latest census were to be made the basis to determine the number of seats from every State to the Lok Sabha.

The electoral system must so operate as to result in an elected body truly representative of our multiple society. The various sections of the society need to be adequately and effectively represented, so as to avoid frustration and strengthen national unity. The Bill, therefore, also provides for proportionate representation of the Scheduled Castes, Scheduled Tribes, Other Backward Classes and each of the minorities.

NEW DELHI;
February 2, 2000.

G.M. BANATWALLA

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides that not more than two hundred and seventy five members of Lok Sabha shall be chosen according to the list system to ensure proportional representation to political parties. This provision will involve expenditure from the Consolidated Fund of India in respect of salaries and allowances to such members. It is likely to involve an annual recurring expenditure of about rupees fifty lakh only from the Consolidated Fund of India per annum. A non-recurring expenditure of about rupees five crore only is also likely to be involved in respect of housing and other facilities to the additional members.

BILL No. 22 OF 2000

A Bill to amend the Jamia Millia Islamia Act, 1998.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows :—

Short title and
commence-
ment.

1. (1) This Act may be called the Jamia Millia Islamia (Amendment) Act, 2000.

(2) It shall come into force at once.

Amendment of
the Long Title.

2. In the Long Title of the Jamia Millia Islamia Act, 1988 (hereinafter referred to as the Principal Act):—

58 of 1988.

(i) the words “establish and” shall be omitted; and

(ii) after the word “University”, the words “for promoting education, particularly of the Muslims”, shall be inserted.

3. In section 2 of the principal Act, in clause (o)—
- Amendment of
Section 2.
- (i) after the word “founded”, the words “by the Sheikhul Hind Maulana Mehmudul Hassan, Maulana Mohammed Ali, Hakim Ajmal Khan, Dr. Mukhtar Ahmed Ansari, Mr. Abdul Majid Khwaja and other leaders of the Muslim community” shall be inserted;
- (ii) after the words “which is incorporated as a University under this Act”, the words “and which is recognised as a minority educational institution under the Constitution of India” shall be inserted.
4. In section 4 of the principal Act, in clause (i), after the words “shall be applied”, the words “to promote the educational and cultural advancement, particularly of the Muslims and” shall be inserted.
- Amendment of
Section 4
5. In section 6 of the principal Act, for clause (ii), the following clause shall be substituted, namely:—
- Amendment of
Section 6
- “(ii) to promote the study of the religions and cultures of India as well as the development of Islamic and the Indian civilizations.”
6. In section 7 of the principal Act, in the proviso, after the words “the Scheduled Tribes”, the words “the Muslims, Other Backward Classes, the Urdu-speaking community, the internal students, outstanding players, the sons/daughters/spouses of the permanent employees and the staff of the University”, shall be inserted.
- Amendment of
Section 7.
7. In section 18 of the principal Act, in sub-section (2), after clause (d), the following clause shall be added, namely:—
- Amendment of
Section 18
- “(e) to decide and lay down the extent of reservation for each category as is referred to in section 7.”
8. In section 25 of the principal Act, in sub-section (1), in clause (c), after the word “examination”, the words “which shall ordinarily be Urdu, to the extent possible” shall be added.
- Amendment of
Section 25.
9. In the Schedule to the principal Act, in statute 11, after clause (xx), the following clauses thereunder shall be inserted, namely:—
- Amendment of
Schedule.
- “Others
- (xxi) six persons representing Muslim culture and learning to be co-opted by the Anjuman (Court);
- (xxii) two persons representing Urdu language and literature to be co-opted by the Anjuman (Court);
- (xxiii) the President and the General Secretary of the University Students’ Union;
- (xxiv) eleven students to be elected by simple majority by students of the various faculties classified into groups in the manner prescribed by the Ordinance;
- (xxv) fifteen ex-students to be elected by the Alumini (old students) Association in the manner prescribed by the Ordinance.”

STATEMENT OF OBJECTS AND REASONS

Consequent to a court decision, the reservation scheme hitherto in vogue in the Jamia Millia Islamia, Delhi, is in jeopardy. This has created a serious situation and a crisis in the Jamia.

This Bill seeks to restore the reservation scheme and the original, historic and minority character of the Jamia.

NEW DELHI;
February 2, 2000.

G.M. BANATWALLA

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill amends Statute 11 to provide that eleven students shall be elected to the Anjuman (Court) by simple majority by students of the various faculties classified into groups in the manner prescribed by the Ordinance. Similarly, fifteen ex-students shall be elected by the Alumini (Old Boys) Association in the manner prescribed by the Ordinance.

The matters for which ordinances may be made pertains to matter of detail and it is not possible to provide for them in the Bill. The delegation of legislative power is, therefore, of a normal character.

BILL No. 12 OF 2000***A Bill further to amend the Constitution of India.***

BE it enacted by Parliament in the Fifty-First Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment of
article 15.

2. In article 15 of the Constitution, after clause (4), the following clause shall be added, namely:—

“(5) Notwithstanding anything in this Constitution, save the provisions of articles 25, 26, 28 and 29, the State shall, in exercise of its authority, under clauses (3) and (4) of this article, have free and complete power to decide in its discretion the nature and extent to any special provision, including the percentage of reservation, if any, made to give effect to any special provision.”

3. In article 16 of the Constitution,—

Amendment of
article 16.

(i) in clause (4A), for the words “the Scheduled Castes and the Scheduled Tribes” substitute “the Scheduled Castes, the Scheduled Tribes and the backward classes of citizens”; and

(ii) after clause (4A), the following clause shall be added, namely:—

“(4AA) Notwithstanding anything in this Constitution,—

(a) the State shall, in exercise of its authority under clauses (4) and (4A) of this article, have free and complete power in regard to the identification of a class or classes of its citizens and in regard to the percentages of reservation made for any or all of such backward classes.

Explanation.—The expression “free and complete power” shall include the free and complete power to decide in its discretion whether the benefit of reservation may or may not apply to any specific appointments or posts and also whether the benefit of reservation may or may not be subject to any restriction the State may deem fit without in any way affecting the operation of the provision contained in sub-clause (b) of this clause; and

(b) the State shall not deny benefit of reservation to any section of a class identified as a backward class of citizens on economic consideration.”.

4. In the Ninth Schedule to the Constitution, after entry 257A and before the Explanation, the following entry shall be inserted, namely:—

Amendment of
the Ninth
Schedule.

“257B. The Kerala State Backward Classes (Reservation of Appointments or Posts in the Services under the State) Act, 1995.”.

STATEMENT OF OBJECTS AND REASONS

Reservation of seats in educational institutions and of appointments or posts in services are key factors in a policy directed towards securing social justice for various sections of the society. The practice of reservation, has a long history, particularly in the South. Articles 15(4), 16(4) and 16(4A) form the constitutional basis for reservations in the policy of social justice. However, some recent judicial pronouncements have created certain difficulties. Reservations have been hedged by certain exclusions and restrictions. These exclusions and restrictions seriously impair and fracture the policy of social justice.

2. In *Indira Sawhney and others versus Union of India and others* (AIR 1993 SC 477), the Supreme Court held that the total reservations under article 16(4) should not exceed fifty per cent.

3. Judicial pronouncements have placed certain sections outside the purview of reservation and have also led to the denial of benefit of reservation to certain sections of the Backward Classes, styled as the 'creamy layer', on extraneous economic considerations. These restrictions and exclusions not only upset the age-long schemes of reservations in States, particularly in Tamil Nadu and Kerala, but are also destructive of any effective policy of reservation and social justice.

4. The Bill seeks to restore the derailed policy of reservation by providing that the State shall have free and complete power (i) to decide, in its discretion, the nature and extent of any special provisions made pursuant to articles 15(3) and 15(4) and (ii) to decide, in its discretion, whether the benefit of reservation, made pursuant to clauses (4) and (4A) of article 16, may or may not apply to any specific appointments or posts and also whether the benefit of such reservations may or may not be subject to any restrictions. The Bill also seeks to provide that the State shall not deny benefit of reservation to any section of the backward class, on economic consideration.

5. Reservation in promotion available to the Scheduled Castes and the Scheduled Tribes is also ought to be extended to Backward Classes.

6. Clause 4 of the Bill seeks to bring the Kerala State Backward Classes (Reservation of Appointments or Posts in the Services under the State) Act, 1995 within the purview of the Ninth Schedule to the Constitution so that it gets due protection in regard to judicial review. Earlier, the Constitution (Seventy-sixth Amendment) Act, 1994 had placed the Tamil Nadu Backward Classes, Scheduled Castes and Scheduled Tribes (Reservation of seats in Educational Institutions and of appointments or posts in the services under the State) Act, 1993, in the Ninth Schedule.

The Bill seeks to achieve the above objectives.

NEW DELHI;
February 3, 2000.

G.M. BANATWALLA.

BILL No. 18 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:

- | | |
|--|----------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 2000. | Short title. |
| 2. In article 19 of the Constitution, in clause (1), after sub-clause (g), the following sub-clause shall be added, namely:—
“(h) to speedy disposition of their cases before all judicial, quasi-judicial or administrative bodies”. | Amendment of article 19. |
| 3. Article 39A of the Constitution shall be omitted. | Omission of article 39A. |
| 4. After Part VI of the Constitution, the following Part and articles thereunder shall be inserted namely: | Insertion of new Part VIA. |

“PART VI A

JUDICIAL PROCESS

Equal justice and free legal aid.

237A. The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular provide free legal aid, by suitable legislation or scheme or in any other form, to insure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Disposal of cases or matters within mandatory period.

237B. All cases or matters filed before the Supreme Court shall be decided or resolved within twenty-four months from the date of submission before the Supreme Court, and, unless reduced by the Supreme Court, within twelve months in case of High Court and within six months in case of a tribunal, district judge or any quasi-judicial or administrative body.

Procedure on expiration of mandatory period for cases, etc.

237C. Upon the expiration of the period within which a case or matter had to be decided or resolved, a certificate to this effect signed by the presiding authority before whom the case or matter was filed, shall forthwith be issued and a copy thereof attached to the record of the case or matter, and served on the parties and that certificate shall state why a decision or resolution has not been rendered or issued within the said period.

Disposal of cases etc. after mandatory period.

237D. Notwithstanding the expiration of the applicable mandatory period, the court or the quasi-judicial or administrative body as the case may be shall decide or resolve or otherwise dispose of the case or matters submitted for determination without further delay.

Cases or matters pending on the date of coming into force of this Act.

237E. All cases or matters pending or continuing before judicial, quasi-judicial or administrative bodies on the date of coming into force of this Act shall be deemed to have been submitted for decision or resolution on the date of coming into force of the Constitution (Amendment) Act, 2000 and shall accordingly be disposed of within the mandatory period in accordance with the provisions of article 237B and other articles in this Part.

Rules of Courts.

237F. (1) Subject to the provisions of any law made by Parliament, the Supreme Court may from time to time, with the approval of the President, make rules as to the procedure and proceedings in any judicial, quasi-judicial or administrative body within its jurisdiction for the enforcement of the right under sub-clause (h) of clause (1) of article 19 including—

(a) rules as to when a case or matter shall be deemed submitted for decision or resolution;

(b) rules as to the speedy disposal of the case or matter after the expiry of the applicable mandatory period.

(2) The provisions of clause (1) shall apply to High Courts with respect to judicial, quasi-judicial or administrative bodies in relation to which it exercises jurisdiction, with the substitution of references to the High Courts, the State Legislatures and the Governors for references to the Supreme Court, the Parliament and the President, as the case may be.

Annual Report on operation of this part.

237G. The Supreme Court shall submit to the President an annual report on the operation of this Part, and the President shall cause all such reports to be laid before each House of Parliament, and sent to the Government of the States for being laid before each House of the State Legislatures.

Interpretation.

237H. In this Part, unless the context otherwise requires, the expression “District Judge” has the same meaning as in Chapter VI of Part VI.

STATEMENT OF OBJECTS AND REASONS

Judicial delays and backlog of cases in courts have assumed frightening proportion. It erodes the whole foundation of justice and lead to an almost denial of justice to the aggrieved. The unscrupulous find in judicial delays a means to evade justice. Unhealthy and questionable practices sprout up for redressal of grievances outside the legal system. The entire social atmosphere is vitiated.

It is imperative that citizens have fundamental right to speedy disposition of their cases. The Bill seeks to amend the Constitution to recognise this right and to provide for a mandatory period for disposal of all cases. The Constitution of the Republic of the Philippines provides for such a mandatory period (Article VIII section 15) pursuant to the guarantee in its Article III, section 16 for speedy disposition of cases filed before judicial, quasi-judicial or administrative bodies.

Article 39A of our Constitution, contained among the Directive Principles of State Policy, gives a direction to the Government to secure that the operation of the legal system promotes justice to all. The Bill seeks to make the article enforceable by law through its inclusion in the proposed new Part VI A.

The Bill seeks to amend the Constitution accordingly.

NEW DELHI;
February 2, 2000.

G.M. BANATWALLA

MEMORANDUM OF DELEGATED LEGISLATION

Clause 4 of the Bill empowers the Supreme Court and the High Courts to make rules to carry out the purposes of the Bill.

The delegation of legislative power is of a normal character.

BILL NO. 13 OF 2000

A Bill to provide for the establishment of an autonomous Board for all-sided development of all economically backward areas of the country.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Backward Areas Development Board Act, 2000.

Short title.

2. (1) The Central Government shall, by notification in the Official Gazette, declare the areas of the country which in the opinion of the Central Government are economically backward.

Identification of Backward areas.

(2) Till such time the Central Government by notification declares, the following areas shall be treated as backward areas:—

- (i) Vidarbha region of State of Maharashtra;
- (ii) Telengana region of State of Andhra Pradesh;
- (iii) Southern districts of State of Tamilnadu;
- (iv) Northern Bihar;
- (v) Tribal areas of States of Orissa and Madhya Pradesh;

(vi) Hilly regions of State of Uttar Pradesh;

(vii) State of Himachal Pradesh;

(viii) North-eastern States.

Backward
Areas
Development
Board.

3. (1) There shall be established by the Central Government by notification in the Official Gazette, a Board to be called the Backward Areas Development Board.

(2) The Board shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

(3) The head office of the Board shall be at New Delhi and Board may, with the previous approval of the Central Government, establish offices at other places in the country.

Composition
of Board.

4. The Board shall consist of the following members, namely:—

(a) a Chairman, who shall be the Vice-Chairman of the Planning Commission, *ex-officio*;

(b) a Vice-Chairman to be appointed by the Central Government;

(c) six Members of Parliament of whom four shall be from Lok Sabha and two from Rajya Sabha to be elected by the Members of the respective Houses, who belong to the backward areas, from amongst themselves;

(d) nine members to be appointed by the Central Government to represent respectively:—

(i) the Planning Commission (other than the Chairman of the Board);

(ii) the Ministry of the Central Government dealing with Agriculture;

(iii) the Ministry of the Central Government dealing with Industrial Development;

(iv) the Ministry of the Central Government dealing with Finance;

(v) the Ministry of the Central Government dealing with Railways;

(vi) the Ministry of the Central Government dealing with Communications;

(vii) The Ministry of the Central Government dealing with Education;

(viii) the Ministry of the Central Government dealing with Health and Family Welfare;

(ix) the Ministry of the Central Government dealing with Irrigation;

(e) not more than five members to be appointed by the Central Government, by rotation in alphabetical order, to represent the Governments of the States having the backward areas;

(f) four members to be appointed by the Central Government, who, in the opinion of that Government, are experts in various fields of economic development.

Development
of Backward
Areas.

5. (1) It shall be the duty of the Board to promote, by such measures as it thinks fit, the all sided development, under the control of the Central Government, of the backward areas of the country.

(2) Without prejudice to the generality of the provisions of sub-section (1), the Board shall take measures for development, particularly, of railways, roads, posts and telegraphs and other means of communications, agriculture and irrigation, industries, banking, drinking water and water power, forests, live-stock, health and family welfare, education, vocational training and tourism.

(3) The Central Government shall set up such industries in backward areas as it may determine.

6. The Central Government shall provide from time to time, after due appropriation made by Parliament by law, adequate funds for—

Appropriation of fund.

(a) development works undertaken by the Board;

(b) administrative expenses of the Board;

7. The Board shall have a fund to be called the Development Fund to which shall be credited all receipts from the Central Government for the purposes of development and all payments by the Board towards development expenditure shall be made therefrom.

Development fund.

8. The Board shall also have a fund to be called the Administration Fund to which shall be credited all receipts from the Central Government for the purposes of administration of the Board and all administrative expenses shall be met therefrom.

Administration fund.

9. The Vice-Chairman of the Board shall be entitled to such salary and allowances as may be prescribed by the Central Government.

Salary of Vice-Chairman.

10. The Central Government shall appoint a Secretary to the Board to exercise such powers and perform such duties as may be prescribed and as may be delegated to him by the Chairman and the Vice-Chairman.

Secretary to the Board.

11. The Board may appoint such officers and employees as may be necessary for the efficient performance of the functions of the Board.

Appointment of officers and staff.

12. (1) The Board shall submit every year a report, in such form as may be prescribed, of its development activities to the Prime Minister.

Annual Report.

(2) The Prime Minister shall cause the report to be laid before both Houses of Parliament as soon as may be after each such report received by him.

13. (1) The Central Government may make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The need for levelling down economic disparities between different regions of the country was accepted as soon as the nation launched upon planned economic development. Accelerated development of backward areas, with a view to reducing regional disparities, was one of the important national objectives. But, even after 52 years of independence, the economic disparities among regions have not only persisted but have also increased. Required attention has not been paid to develop the backward areas.

For the development of the backward areas of the country and to bring them up in a short time to the level of the rest of the country, the strategy should be to evolve a fully integrated development programme for identified backward areas to ensure their all round progress. For drought-prone areas which have a predominance of small and marginal farmers, area based programmes which envisage a flow of the necessary inputs in the form of a package to enable accelerated economic development should be implemented. In addition, a programme of giving incentives to enable accelerated industrialisation of identified backward areas should also be implemented. It should be ensured that infrastructural facilities like power, water supply and transport are steadily developed and made available to areas which are at present lagging behind industrially or where there is a greater need for providing opportunities for employment. In order to achieve these objectives, an autonomous body, though under the overall control of the Central Government, should be established which would be responsible for planning and implementation of area based package programmes in coordination with the Planning Commission and the State Governments.

The Bill seeks to achieve the above objective.

NEW DELHI;
February 3, 2000.

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of the Backward Areas Development Board. Clause 9 provides for payment of salary to Vice-Chairman. Clauses 10 and 11 provide for appointment of a Secretary to the Board and other necessary staff for performance of the functions of the Board. The Bill, therefore, if enacted, is likely to involve a recurring expenditure of about rupees fifteen lakhs from the Consolidated Fund of India on account of administrative expenses. So far as the development expenditure (Clause 6) is concerned, that will form part of the annual expenditure on development plans of the country as a whole, and the development funds shall be made available to the Board after due appropriation by Parliament. An estimate of such expenditure is not possible at this stage. Nevertheless a sum of rupees ten thousand crore may be recurred per annum.

A non-recurring expenditure of about rupees Fifty crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13 of the Bill empowers the Central Government to frame rules for carrying out the purposes of the Bill. As the rules will provide for matters of detail only, the delegation of legislative power is of a normal character.

BILL No.17 OF 2000

A Bill to ensure freedom of having access to and obtaining public information for the citizens and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Freedom of Information Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

Citizens not to
be denied
freedom of
information.

2. Notwithstanding anything contained in any other Act for the time being in force, no citizen of India shall be denied the freedom to have access to or to obtain information relating to public affairs save as otherwise provided in this Act.

Constitution of
National
Information
Bureau.

3. (1) The Central Government shall constitute such number of agencies to be called the National Information Bureau (hereinafter referred to as Bureau) in every State and Union territory as it may consider necessary for ensuring the freedom of having access to and obtaining public information for the citizens.

(2) Each Bureau shall consist of such number of advisors as the Central Government may determine from time to time.

(3) Each Bureau shall have a Chief of Bureau to function as its head who shall be appointed by the Central Government.

(4) The Advisors to a Bureau shall be appointed by the Central Government on the advice of its Chief of Bureau in such manner that they represent the concerned sectors of public information and are capable of ensuring freedom of having access to and obtaining as much public information for the citizens as the Bureau may find it possible to make available to the public for inspection and copying.

4. Each Bureau shall classify all information available with it or to be made available to it, in such manner as it may deem practicable and convenient keeping in view the nature and source of the information.

Classification of Information.

5. Certain types of information may, by Executive Order, be declared by the Central Government or the Government of a State or the Administrations of a Union territory, as secret in the interest of national defence or foreign policy or judicial process or maintenance of public peace or law and order or such other matters as may be so declared from time to time and shall be exempt from disclosure under this Act.

Exemption of certain types of information from disclosure.

6. Each Bureau shall submit a quarterly report on its working to the Governor of the State or the Lieutenant Governor or other such authority of a Union territory who shall forward the same to the President, as early as practicable, with his comments and recommendations thereon.

Reports.

7. Subject to the provisions of section 5, it shall be obligatory on the part of each Bureau to make available the maximum possible information to the citizens and also on the part of the Central Government and Governments of the States and the Administration of the Union territories to make available to the respective Bureau as much information as possible on priority basis.

Obligation to supply information.

8. In every case of denial or undue delay in the supply of information, any citizen requesting for the information shall have the opportunity to make a complaint to the Chief of Bureau in regard thereto, in the first instance, and to make a first appeal to the Governor or the Lieutenant Governor as the case may be and the Second appeal to the President, against the decision of the Chief of Bureau, the Governor or the Lieutenant Governor, as the case may be.

Complaint and appeal.

9. Each Bureau shall charge such fees for making available any information as it may deem adequate in respect of each class of information.

Fees for information.

10. Each Bureau shall have a Secretary and such other officers and staff as may be considered necessary from time to time to execute the work of the Bureau efficiently.

Officers and staff.

11. The Central Government may, by notification in the official gazette, make rules for the purpose of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There is widespread discontent among the masses leading to all sort of turmoil and disturbances in almost all parts of the country, particularly directed against the Government of the day. Among other things, one of the basic causes of this disturbing phenomenon is ignorance or lack of adequate information available to the people leading to mistrust among them regarding the working and the pronouncements of the Government. It is time to recall and act in the spirit of the famous dictum of Abraham Lincoln that democracy is Government of the people, for the people and by the people.

It is therefore proposed to enact a legislation to ensure information to general public.

Hence this Bill.

NEW DELHI;

SUBODH MOHITE

February 3, 2000

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of such number of the National Information Bureau in each State and Union Territory, as may be considered necessary, by the Central Government. Clause 10 provides for the appointment of a Secretary and such other officers and staff as may be considered necessary from time to time for efficient work of the Bureau.

Though there is provision for charging fees to meet the expenses involved in carrying out the purposes of the Bill, yet the provisions when enacted and brought into operation would involve expenditure from the Consolidated Fund of India.

There is likely to be a non-recurring expenditure of approximately rupees ten crore and recurring expenditure of about rupees twenty crore per year.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of the legislative power is of a normal character.

BILL No. 20 OF 2000

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 2000.

Amendment of
section 2.

2. In the Code of Criminal Procedure, 1973 (hereinafter referred to as the principal Act), in section 2, after clause (w), the following clauses shall be inserted, namely:— 2 of 1974.

“(wa) ‘Tribunal’ means a Criminal Offences Claims Tribunal constituted under Chapter IIIA;

(wb) ‘victim’ means a person who, individually or collectively has suffered physical or mental injury or loss or damage to property or substantial impairment to his fundamental rights, through acts of commission or omission by any person in violation of any law in force or a victim of any offence under the Indian Penal Code and includes the immediate family or dependants in the case of death of a victim;”

3. In the principal Act, after Chapter III, the following Chapter shall be inserted, namely:—

Insertion of new Chapter III A.

"CHAPTER IIIA

CRIMINAL OFFENCES CLAIMS TRIBUNALS

35A. (1) Every State Government and Union territory administration shall, by notification in the Official Gazette, constitute one or more Tribunals to be known as Criminal Offences Claims Tribunal for such areas in the respective State or the Union territory as may be specified in the notification, for the purpose of adjudicating upon claims of a victim for compensation in respect of offences involving death of, or bodily or mental injuries to persons or damages to his property or mental, social or political activities.

Setting up of criminal offences claims Tribunals.

(2) A Tribunal shall consist of such number of members as the State Government or the Union territory administration may deem fit to appoint and where it consists of two or more members, one of them shall be appointed as the Chairman thereof.

(3) A person shall not be qualified for appointment as the member of a Tribunal unless he—

(a) is, or has been, a judge of a High Court, or

(b) is, or has been, a District Judge, or

(c) is qualified for appointment as a Judge of the High Court.

(4) Where two or more Tribunals are constituted for any area, the State Government or the Union territory administration may, by a general or special order, regulate the distribution of business among such Tribunals.

35B. (1) An application for compensation arising out of an offence specified in sub-section (1) of section 35A may be made—

Application for compensation.

(a) by the person who has sustained the injury; or

(b) where death has resulted by the offence, by all or any of the legal representatives of the deceased; or

(c) by an agent duly authorised by the person injured or by all or any of the representatives of the deceased, as the case may be:

Provided that where all the legal representatives of the deceased have not joined in any such application for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives, who have not so joined, shall be impleaded as respondents to the application.

(2) Every application under sub-section (1) shall be made to the Tribunal having jurisdiction over the area in which the offence has taken place and shall be in such form and shall contain such particulars as may be prescribed.

(3) No application for compensation under this section shall be entertained unless it is made within six months of the occurrence of the offence:

Provided that the Tribunal may entertain the application after the expiry of the said period of six months if it is satisfied that the applicant was prevented from making the application in time.

Award.

35C. On receipt of an application made under section 35B for compensation, the Tribunal shall, after giving the parties an opportunity of being heard, make an interim award based on its subjective satisfaction of the urgency in the matter and after recording the reasons in writing and holding an inquiry into the claim shall make a final award determining the amount of compensation, which appears to it to be just, and specifying the person or persons by whom and to whom it shall be paid, and in making the award the Tribunal shall specify the amount and also the method of payment to and distribution among the claimants.

Payment of award by accused.

35D. The compensation, as awarded under section 35C, shall be payable by an individual or individuals, if he or they have been found guilty of an offence under sub-section (1) of section 35A by the Tribunal to the victim.

compensation to be collected as arrear of land revenue.

35E. Where the compensation has not been paid to the victim by the person responsible to pay such compensation under section 35D, the Government concerned shall take such steps as it deems fit to collect the money as an arrear of land revenue from the person and pay the same to the victim.

Government to pay compensation in case of failure by accused.

35F. Where the persons responsible to pay compensation under section 35D, is not in a position to do so, the State Government or the Union territory Government, as the case may be, shall pay the compensation, awarded under section 35C, to the victim, out of a Fund to be constituted for the purpose.

Procedure for inquiry.

35G. (1) In holding any inquiry under section 35C, the Tribunal may, subject to any rules that may be made in this behalf, follow such summary procedure as it deems fit.

(2) The Tribunal shall have all the powers of a civil court for the purpose of taking evidence on oath and of enforcing the attendance of witnesses and of compelling the production of documents and material objects and for such other purposes as may be prescribed.

(3) Subject to the rules that may be made in this behalf, the Tribunal may, for the purpose of adjudicating upon any claim for compensation, request one or more persons possessing special knowledge of any matter relevant to the injury, to assist it in holding the inquiry.

Appeal.

35H. (1) Subject to the provisions of this Chapter, any person aggrieved by an award of Tribunal, may, within ninety days from the date of award, prefer an appeal to the High Court:

Provided that the High Court may entertain the appeal after the expiry of the said period of ninety days, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) No appeal shall lie against an award of a Tribunal if the amount in dispute in the appeal is less than five thousand rupees.

Criminal courts not to have jurisdiction.

35I. Where any Tribunal has been constituted for any area, no criminal court shall have jurisdiction to entertain any question relating to any claim for compensation which may be adjudicated upon by the Tribunal for that area, and no injunction in respect of the claim for compensation shall be granted by the criminal court.

Rules.

35J. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the appointment, salary, allowances, conditions of service, etc. of the members of the Tribunal;

(b) the form of application for claims for compensation and the particulars it may contain; and the fees, if any, to be paid in respect of such applications;

(c) the procedure to be followed by the Tribunal in holding an inquiry under this Chapter;

(d) the powers vested in a civil court which may be exercised by a Tribunal;

(e) the form and manner in which and the fees, if any, on payment of which an appeal may be preferred against an award of a Tribunal; and

(f) any other matter which is to be, or may be, prescribed."

STATEMENT OF OBJECTS AND REASONS

Crimes are being committed and offenders are tried throughout the civilised world. Some of the accused persons are acquitted not entirely on the basis of the facts of the case but due to the benefit of doubt given to them.

While the rights of the accused are well protected under law, the victims of offences are left helpless and unprotected. The civil law open to them is costly, indirect, cumbersome and long drawn. The importance and necessity of providing a cheap and immediate relief to the helpless victims of crime was recognised world wide and the United Nations Congress on the Prevention of Crime and treatment of Offenders, has recommended that the rights of the victims should be protected and that the Government concerned should ensure payment of compensation to the victims.

Hence this Bill.

NEW DELHI;
February 3, 2000.

SUBODH MOHITE

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every State Government and Union territory administration shall constitute one or more Criminal Offences Claims Tribunals for the purpose of disposing of claims for compensation made by victims of offences like death, physical or mental injury, etc. The tribunal consist of such number of members as may be deemed fit by the Government concerned. It further provides that where the person responsible to pay compensation awarded by a Tribunal is not in a position to pay the victim, the Government concerned shall pay such compensation out of a Fund to be constituted for the purpose. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India in constitution of Tribunals, payment of salaries and allowances of the members and in constitution of the Fund, in respect of Union territories. As far as State Governments are concerned, the expenditure will be met from the Consolidated Funds of respective States. It is likely to involve an annual recurring expenditure of about rupees five crore.

It is also likely to involve a non-recurring expenditure of about rupees five crore from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. Since the rules will relate to the matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 34 OF 2000

A Bill further to amend the All-India Services Act, 1951.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title and extent.

1. (1) This Act may be called the All-India Services (Amendment) Act, 2000.

(2) It shall come into force at once.

Insertion of new section 2B.

2. After section 2A of the All-India Services Act, 1951, the following sections shall be inserted, namely:— 61 of 1951.

Special responsibility and duty of members of All-India Services to execute projects under their jurisdiction within scheduled time.

“2B (1). It shall be the special responsibility and duty of a member of an all-India Service to ensure that the plans or projects or any development work under his jurisdiction or charge or administrative control or for the execution or completion or carrying out of which he is responsible in any way, are executed or completed or carried out efficiently, economically and within the scheduled time.

(2) It shall be the responsibility and duty of a member of an all-India service to ensure that plans and projects recommended by the members of Parliament or of the State Legislatures under any special scheme are executed within the schedule and the member of all-India service shall take special care to inform the member of Parliament or of the State Legislature about the progress of the project from time to time.

2C. Notwithstanding anything in this Act, at the end of every year, the performance of every member of an all India Service shall be evaluated, with particular reference to the execution or carrying out of the specific plans or projects or development works under his jurisdiction or in his charge or administrative control or for the execution or carrying out of which he is responsible in any way, and a performance report prepared.

Evaluation of performance of every member of All-India Services.

2D. For the purpose of evaluating the performance of a member of an all-India Service under section 2C, the officer to be reported upon shall submit to the reporting officer, at the end of each year, a brief resume, not exceeding three hundred words, of the work done by him during the year under review, bringing out his special achievement, if any, and the resume so submitted shall form part of the confidential record of the officer.

Submission of report to the Reporting Officer.

2E. (1) The reporting officer shall take note of the resume while preparing the performance report and shall, after making his own assessment of and comments on the work of the officer, submit the report along with the entire record to the next higher officer, namely, the reviewing officer who shall add his own comments, if any.

Assessment of Reporting Officer and submission of Report to higher officer.

(2) The reporting officer shall make a special mention in the performance report of any delay or set-back in the execution or carrying out of the specific plans, projects or development works under the charge or administrative control of the officer reported upon due to the negligence or inefficiency of the officer reported upon.

(3) The annual performance reports shall form part of the confidential record of the officer.

2F. Where as a result of annual evaluation of the performance of an officer, it is found that the work under his charge has suffered or has been delayed due to the negligence or inefficiency of the officer, he shall be called upon to explain such delay and negligence or inefficiency and suitable action against the officer shall be taken if found guilty.

Explanation in case of delay or negligence by officers concerned.

2G. The annual performance reports shall form the basis while considering a member of an all- India Service for promotion to higher post or grade.

Annual performance to form the basis of promotion to higher post.

2H. (1) A special evaluation of the performance of every member of an all-India Service shall be made after the completion of every five years of his service and a special report shall be submitted, within three months thereof, for the purpose of considering his suitability for retention in the service.

Special evaluation of the performance of members of All- India Services.

(2) The annual performance reports for the five years under review shall be taken into consideration for the purpose of special evaluation under sub-section (1).

2I. If a member of an all-India Service earns an adverse report twice consecutively, as a result of special evaluation under section 2H, his services shall be terminated."

Termination of Service.

STATEMENT OF OBJECTS AND REASONS

Removal of poverty and attainment of economic self-reliance are the two major tasks before the country. After independence, the country embarked upon a programme of development weighed in favour of basic industries, agriculture and social services. But, poverty is still a major problem. Large number of our people are still living below the poverty level. Our planning, in fact, has failed to make a major dent on poverty. One reason for this failure has been the inadequate rate of growth. The actual performance of the economy in the various Five Year Plans shows a substantial shortfall in the achievement of targets fixed in various sectors of economy. One of the main reasons for shortfall in achieving the targets has been the faulty and leisurely implementation of the Plans and execution of programmes and projects. In majority of cases, the execution of projects and development works and completion of works under public undertakings have taken a much longer period than envisaged. The compulsions of the present situation make it necessary to accelerate the pace of implementation in the current Plan.

To accelerate the pace of progress and to achieve the Plan targets, it is necessary that administrators or the persons responsible for implementation of projects should be made accountable for results.

Members of Parliament recommend various plans and projects under MPLAD Scheme. However, these schemes are also not executed within specified period and properly. Members of Parliament are not informed about the progress of the plans.

Officers of all-India Services, particularly the officers of the Indian Administrative Service and the Indian Service of Engineers, have been entrusted, in one way or other, the task of implementation of our Plans. But, the pace of implementation of plans and management of public sector undertakings has shown that much more was expected of these officers. In fact, they should be made accountable for the results, if at all the implementation of Plans and rate of growth is to be accelerated. For this purpose, it is necessary that a provision is made in the All-India Services Act, 1951 for yearly evaluation of performance of every member of an All-India Service in relation to the execution or carrying out of specific plans, projects or development works under his charge or with which he is associated in an executive capacity and for fixing his responsibility for any delay or set-back in the execution of plans or projects or for any mismanagement, etc. due to his negligence or inefficiency.

The Administrative Reforms Commission in its Report on Personnel Administration presented to the Government on the 18th April, 1969 had recommended for evaluation of the performance of officers and, with that object in view, had suggested for preparation of annual performance report of every officer after taking due note of the resume to be submitted by the officer whose performance is under review, at the end of each year giving a brief account of work done by him and bringing out his special achievements, if any, during that year. It was recommended that the annual performance reports should form part of the confidential record of the officer.

The annual performance reports should be given due weight while considering a member of an all-India Service for promotion to a higher post. Special evaluation should be made after every five years keeping in view the annual performance reports and if an officer earns an adverse report twice consecutively as a result of such special evaluation, his services should be terminated. Such a provision would go a long way in accelerating the implementation of Plans and achieving a higher rate of growth of our economy.

Hence this Bill.

NEW DELHI;
February, 3, 2000.

SUBODH MOHITE

BILL NO. 31 OF 2000

A Bill to prohibit slaughter of cow and its progeny.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

- | | |
|---|----------------------------------|
| 1. This Act may be called the Prohibition of Cow Slaughter Act, 2000. | Short title. |
| 2. In this Act, unless the context otherwise requires, "cow" includes a bull, bullock, ox, bison or calf. | Definition. |
| 3. Notwithstanding anything contained in any other law for the time being in force or any usage or custom or practice to the contrary, no person shall slaughter or cause to be slaughtered or offer or cause to be offered for slaughter any cow at any place. | Prohibition of slaughter of cow. |
| 4. No person shall sell or offer for sale or cause to be sold beef or beef products in any form for any purpose. | Prohibition of sale of beef. |
| 5. The State shall set up sheds at various locations to provide shelter to loitering cows. | Sheds for loitering cows. |
| 6. Any person who slaughters a cow or is caught selling beef or beef products shall be punished with simple imprisonment which may extend to five years and/or with fine which may extend to rupees ten thousand. | Punishment. |
| 7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act. | Power to make rules. |

STATEMENT OF OBJECTS AND REASONS

Article 48 of the Constitution enjoins upon the State to organize agricultural and animal husbandry on modern and scientific lines and in particular to take steps for preserving and improving the breeds and prohibiting the slaughter of cow and its progeny. In view of the consideration that the cow and its entire progeny must be saved to provide milk and milk products, as well as manure, it has become necessary to enforce prohibition of cow slaughter.

NEW DELHI;
January 27, 2000.

U.V. KRISHNAM RAJU

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for creation and maintenance of cattle sheds for loitering cows at various places. The Central Government has to bear the expenditure in respect of implementing the provisions of the Bill in respect of Union territories. The respective State Government shall bear the expenditure in respect of their State. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure to the tune of rupees fifty lakh is likely to be incurred per annum.

A non-recurring expenditure of about rupees one crore is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 58 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment of Part XII.

2. In Part XII of the Constitution, after Chapter II, the following Chapter and articles thereunder shall be inserted, namely:—

CHAPTER IIA —INTERNAL AUDIT

Internal Audit.

“293A. (1) Every Ministry and department of the Union shall make provision for internal audit of the Ministry or the departments, as the case may be, to keep a check on its income and expenditure and also prepare a report on the financial position of the organisation concerned.

(2) Every Ministry and department of a State Government shall make provision for internal audit of the Ministry or the department, as the case may be, to keep a check on its income and expenditure and also prepare a report on the financial position of the organisation concerned.

Submission of report to the Comptroller and Auditor General of India.

293B. The reports so prepared under article 293A shall be forwarded to the Comptroller and Auditor General of India.”.

STATEMENT OF OBJECTS AND REASONS

The Comptroller and Auditor General of India causes the audit and accounts of the Union and of the States. However, since the work involved will be of a huge volume, it will not be physically possible for the Comptroller and Auditor General of India or his office to verify each and every item of expenditure or income of a particular organisation. At the most, Comptroller and Auditor General of India can verify the accounts at a random basis and as a result some of the items might miss verification. Therefore, a correct picture of the financial position of a State Government or an organisation under it cannot be given by the Comptroller and Auditor General of India. Therefore, it is proposed to make financial audit compulsory in each Ministry and department of the Union and of every State Government so as to enable checking of each item of the income and expenditure and also to present a true and complete picture of the financial affairs of the Government. Accordingly, it is proposed to amend the Constitution of India.

Hence this Bill.

NEW DELHI;
March 16, 2000.

VIJAY GOEL

BILL NO. 25 OF 2000

A Bill to provide for population control through sterilization and for measures for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title, extent and Commencement.

1. (1) The Act may be called the Population Control Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, notify.

Definition.

2. In this Act, unless the context otherwise requires, "appropriate Government" means the Central Government in relation to Union territories and, the State Government in relation to a State.

3. If either the husband or the wife in the case of a married couple, who have only one child on the date of commencement of this Act, voluntarily undergoes sterilization, the appropriate Government shall provide them with the following benefits, namely:—

(i) supply of essential commodities such as rice, wheat, milk, sugar, etc., at subsidized rates;

(ii) free education including higher education to such child;

(iii) suitable employment to such child after he/she completes his/her education; and

(iv) such other benefits as may be prescribed by rules made under this Act.

4. The appropriate Government shall introduce a compulsory subject relating to population control in all educational institutions for all children, from ninth class to eleventh class, irrespective of the course they are pursuing.

5. No marriage shall be solemnized between a male who is less than twenty-five years of age, and a female who is less than twenty-one years of age.

6. (1) Any person who is serving in connection with the affairs of the Union Government or in any undertaking or organization under the control of the Union Government and who has only one living child or who has not procreated any child or who is unmarried on the date of Commencement of this Act, shall give an undertaking that he shall not procreate more than one living child.

(2) Any person violating the provisions of sub-section (1) shall be subject to such disciplinary action as may be determined by the Central Government.

7. Any person violating the provisions of section 5 shall be punished with simple imprisonment for a term which shall not be less than two years and with fine which shall be not less than rupees five thousand.

8. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

9. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Facilities to couples who undergo sterilization after one child.

Introduction of compulsory subject relating to population control in schools.

Age for marriage.

Provisions relating to Central Government employees, etc.

Punishment.

Act to have over-riding effect.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Rapid increase in the population has given rise to many socio-economic problems like poverty, food and housing shortage, unemployment, environmental degradation, etc. We are the second highest populous country after China. If the present trend continues, it will not be possible for us to tackle the socio-economic problems which would be beyond control due to population explosion. It is, therefore, imperative that certain effective steps should be taken to check the increasing growth of our population. Since our resources are limited, proper upbringing of children is possible only if the size of the family is limited. Despite existence of various birth control measures and various family planning programmes, the problem of over population still remains.

The Bill, therefore, seeks to promote sterilization voluntarily among the eligible couples having one child, and also provides for certain measures like fixing the minimum age for marriages, promoting small family norms, introduction of population control subject in the school curricula for promoting small family norm in the future generation.

NEW DELHI;
January 27, 2000

U.V. KRISHNAM RAJU

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for certain benefits to be given to those who undergo sterilisation voluntarily. Clause 4 provides for introduction of compulsory subject relating to population control in all educational institutions. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union territories. The State Governments will incur expenditure in respect of their State out of their respective consolidated funds. The Bill, therefore, will involve an annual recurring expenditure of about rupees twelve crore out of the Consolidated Fund of India.

No non-recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 36 OF 2000

A Bill to provide for population control measures and for promoting small family norm and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Population Control Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definition.

2. In this Act, unless the context otherwise requires, "appropriate Government" means the Central Government in relation to Union territories and the State Government in relation to a State.

Facilities for
those who are
childless.

3. A married couple who have no child shall be provided with the following facilities:—

(a) free two room house;

(b) out of turn promotion to those who are in Government/State/Public Undertaking service or any other organisation connected with the Government;

(c) one time cash reward of rupees twenty five thousand to those who are not in Government service;

(d) free medical treatment, food, pension, etc. in their old age.

Facilities for
those having
one child.

4. A married couple who have only one child shall be provided with the following facilities:—

(a) two bed room house at concessional rates;

(b) free education including technical education, to the child, free of cost;

(c) out of turn promotion in one grade to those who are in Government service and one time cash reward of rupees twenty five thousand to those who are not in Government service; and

(d) employment to the child after completion of his education.

5. A married couple who have two children shall be provided with the following facilities:—

Facilities for those persons having two children.

(a) free education to both children;

(b) job to one child;

(c) two bed room house at concessional rates; and

(d) two advance increments in any grade to those who are in Government service and one time cash reward of rupees twenty five thousand to those who are not in Government service.

6. The appropriate Government shall introduce a compulsory subject relating to population control in all educational institutions for all children who have attained the age of fifteen years irrespective of course they are pursuing.

Compulsory subjects relating to population control in schools.

7. No marriage shall be solemnised between a male who is less than twenty eight years of age and a female who is less than twenty five years of age.

Minimum age for marriage.

8. (1) There shall be constituted a fund to be called the National Population Control Fund by the Central Government.

Constitution of National Population Control Fund.

(2) The Central Government and every State Government shall contribute to the fund in such ratio as may be prescribed by the Central Government.

9. The fund constituted under section 8 shall be utilised for the following purposes:—

Utilisation of Fund.

(i) giving of national population control award to the State Government or Union territory which has recorded the least population growth during the year;

(ii) giving wide publicity through print and electronic media regarding need for population control; and

(iii) providing funds to popularise the family planning programmes.

10. (1) Any person who is serving in connection with the affairs of the Union Government or in any undertaking or organisation under the control of the Government and who has only one child or who has not procreated any child or who is unmarried on the date of coming into force of this Act, shall give an undertaking that he shall not procreate more than two children.

Provisions relating to Central Government employees etc.

(2) Any person violating the provisions of sub-section (1) shall be subject to such action may be determined by the Central Government.

11. Any person who is running his own company, firm, society or corporation, if violates the provisions of the Act shall not be allowed to avail himself of any loan or facility of any kind from any Government company or financial institution.

Disincentives for violation of the provision of the Act.

12. Any person, except those mentioned in sections 10 and 11, violating the provisions of this Act shall be punished with rigorous imprisonment for a term which shall not be less than five years and with fine which shall not be less than rupees fifty thousand.

Punishment for violation of the provisions of the Act.

13. The provisions of this Act shall apply notwithstanding anything contained to the contrary in any other law for the time being in force.

Act to have overriding effect.

14. The Central Government may by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

For the last 50 years India has doubled its population and by the turn of the century India shall have three out of the ten most populous cities in the world, and half the population of these cities would be living in slums under squalid conditions. Without massive public contributions for air pollution control and perspective planning, living conditions in all urban areas will progressively deteriorate.

The break down of the civic amenities due to over crowding, law and order situation, unemployment and widening of the gap between the haves and have nots has progressively created an explosive situation. The need for housing is far beyond the available finances and educational facilities are hopelessly inadequate to meet the existing demands. There is no balance between population growth and the infrastructure and available opportunities.

The provisions of the Bill are, therefore, the most effective method to check the population growth. The steps taken so far have not yielded good results.

The country has achieved the production targets but due to over population it is becoming insufficient and the progress of the country is hampered.

Therefore, the time has come when strong measures have become essential and if such measures are not taken at the earliest the future generations may not forgive us for this lapse.

Therefore, the Bill seeks to provide incentives to those who adopt family planning methods and disincentives to those who do not adopt small family norm.

Hence this Bill.

NEW DELHI;

Y. S. VIVEKANANDA REDDY

February 8, 2000

FINANCIAL MEMORANDUM

Clause 3 to 5 provides that certain benefits are to be given to those who have no child or who have one child or who have two children. Clause 6 provides for introduction of compulsory subject relating to population control in all educational institutions. Clause 8 provides for establishing National Population Control Fund to which the Central Government shall also contribute. The Central Government shall have to incur some expenditure for implementing the provisions of this Bill in respect of Union territories. The State Governments will incur expenditure in respect of their State out of their respective consolidated funds. The Bill, therefore, will involve an annual recurring expenditure of about rupees one thousand crore out of the Consolidated Fund of India.

A non-recurring expenditure of about rupees one hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the rules to be made relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 33 OF 2000

A Bill to provide for the establishment of an Agricultural Produce Price Fixation Board to fix the remunerative support price of agricultural produce including fruits and vegetables on annual and seasonal basis and timely intervention by the Government at the time of steep fall in prices of such produce in the open market and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title,
extent and
Commence-
ment.

1. (1) This Act may be called the Agricultural Produce (Remunerative Support Prices and Miscellaneous Provisions) Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Act, unless the context otherwise requires;

(a) "Agricultural produce" includes wheat, paddy, pulses, sugarcane, cotton, oil seeds, coarse grains like maize, millet, jowar, bajra, gram, soyabean, fruits, vegetables such as potato, onion, tomato, cauliflower, cabbage including such other agricultural or horticultural produce which are used for human consumption or for any medicinal purpose;

(b) "appropriate Government" means in the case of a State, the State Government and in other cases, the Central Government;

(c) "Board" means the Agricultural Produce Price Fixation Board established under section 3;

(d) "Government agency" means and includes any agency of the Government by whatever name called or which receives grants from the Government and which is engaged in procurement, distribution and canalising agricultural produces; and

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, as soon as may be, but not later than six months from the date of commencement of this Act, by notification in the Official Gazette, establish a Board to be known as Agricultural Produce Price Fixation Board.

Establishment of an Agricultural Produce Price Fixation Board.

(2) The Headquarters of the Board shall be at Mumbai.

(3) The Board shall set up one zonal office each in the eastern, western, northern, north eastern, central and southern parts of the country comprising of such States and Union Territories, as may be determined by the Board and shall consist of such members as may be prescribed.

(4) The Board shall consist of:—

(a) A Chairperson and a Deputy Chairperson with agricultural background and holding agricultural qualifications, to be appointed by the Central Government;

(b) one member from each zonal office of the Board;

(c) one member each to represent the Union Ministries dealing with agriculture, food, food processing and fertilisers;

(d) one member to represent the Indian Council of Agricultural Research;

(e) ten members to be appointed by the Central Government from amongst the farmers and agricultural labourers, in rotation from various States; and

(f) five members of Parliament of whom three shall be from Lok Sabha and two from Rajya Sabha, respectively; and

(5) The Board shall be a body corporate by the name aforesaid having perpetual succession and a common seal, with power to acquire, hold and dispose off property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(6) The term of office of the Chairperson, Deputy Chairperson and the manner of filling vacancies and the procedure to be followed in the discharge of their functions shall be such as may be prescribed.

4. (1) The Board shall,—

(i) fix and declare minimum remunerative support prices of agricultural produce before every sowing season after examining the recommendations of all the zonal offices:

Provided that different prices may be fixed for different produce and for different zones;

(ii) fix the issue prices of foodgrains for retail sale to consumers every year.

(2) The Board shall perform its functions in close liaison with Government agencies, institutions including co-operative societies and such other authorities concerned with the procurement, supply, distribution, trade of agricultural produce and avoid duplication of efforts.

Function of the Board.

(3) The Board shall give wide publicity to the remunerative prices fixed for agricultural produce through electronic and print media throughout the country well in advance.

Function of
the Zonal
office.

5. (1) It shall be the duty of each zonal office of the Board to recommend to the Board the remunerative support prices of agricultural produce in respect of its jurisdiction.

(2) Every zonal office of the Board, before recommending the minimum support remunerative prices of agricultural produce, shall take into account all relevant factors, but in particular, the following, namely;

- (a) average capital investment made by farmers in growing the produce;**
- (b) average labour charges;**
- (c) interest on loans borrowed for growing the produce;**
- (d) premium for crop insurance, if any;**
- (e) maintenance cost of the land;**
- (f) expenditure on fertilisers, seeds and electricity, etc;**
- (g) any concession, rebate or subsidy provided by Government in relation to agricultural produce;**
- (h) prevailing open market price of each product;**
- (i) climatic conditions and incidence of natural calamities like floods, droughts, hailstorms, cyclones, untimely rains, etc.**
- (j) average monthly household expenditure of an average farmer; and**
- (k) any other incidental expenditure.**

Government
agencies to
purchase
agricultural
produce.

6. (1) In case any farmer fails to sell his produce in the open market at the desired prices, the Central Government shall purchase his produce at the price fixed by the Board through Government agencies.

(2) If there is a steep fall in the prices of agricultural produce in the open market, it shall be the duty of the appropriate Government to intervene through its agencies in the market to ensure that farmers get minimum support price of the produce and take such other measures as it may deem necessary to handle the situation and protect the interests of the farmers.

Act to have
Over-riding
effect.

7. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to
make rules.

8. The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country, the farmer and his family entirely depends on the crop he grows and reaps. The crop is the result of his hard work and his expectations are always for the remunerative prices so that he could repay the loans which he borrowed for growing agricultural produce and to meet social obligations and household expenditure. But unfortunately, it is an usual phenomenon that in the immediate post harvest period the prices of most of the agricultural produce decline very sharply and farmers are left high and dry and at the mercy of unscrupulous traders who exploit them to the maximum possible.

Similarly, it is now very common that whenever there is bumper crop of anything, be it foodgrains or vegetables, the prices of such items fall very steeply. For instance when there is bumper crop of any commodities, their prices fall to the extent that the growers have no choice but to throw them on the roadsides and it has been noticed that the farmers sometimes burn their sugarcane on the fields. But even the Government does not come to their rescue. Hence, there is an urgent need to provide that Government should intervene at such times to protect the interests of the farmers.

The Agricultural Ministry of the Union Government fixes the minimum support prices of agricultural produce but generally such prices are not realistic ones and there has always been discontentment amongst the farmers regarding such prices because they remain far below the expectations of the farmers. It is, therefore, necessary to set up a statutory autonomous agricultural produce price fixation Board including therein the representatives of the farmers and agricultural labourers to fix the remunerative prices for agricultural produce taking into consideration all the aspects. It will also be mandatory for the Government to purchase agricultural produce from the farmers through their agencies. It is felt that the guarantee of a minimum assured price will further give the requisite boost to our agriculture sector and our farmer will prosper for which he really deserves.

Hence this Bill.

NEW DELHI;
February 10, 2000.

G. S. BASVARAJ

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of Agricultural Produce Price Fixation Board. It further provides for setting up of zonal offices. Clause 4 provides that the Board shall give wide publicity through electronic and print media about the prices fixed. Clause 6 provides that the Central Government shall purchase agricultural produce at the prices fixed by the Board. The Bill, if enacted and brought into operation, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees sixty crore may be involved as recurring expenditure per annum.

A non-recurring expenditure of rupees one crore may also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to the matters of detail only.

The delegation of legislative power is, therefore, of a normal character.

BILL NO. 39 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2000.

Short title.

2. In Part V of the Constitution, after article 151, the following Chapter and articles thereunder shall be inserted, namely:—

Insertion of
new Chapter
VI.

“CHAPTER VI

CENTRAL BUREAU OF INVESTIGATION

151A. (1) There shall be established a Central Bureau of Investigation consisting of a Chief Commissioner and three other Commissioners.

Central Bureau
of Investiga-
tion.

(2) The Chief Commissioner and other Commissioners shall be appointed by the President by warrant under his hand and seal.

(3) The Chief Commissioner and other Commissioners shall be appointed on the recommendations of a Committee consisting of:—

- (i) the Prime Minister;
- (ii) the Chief Justice of India;
- (iii) the Leader of the Opposition in Lok Sabha;
- (iv) the Union Home Minister.

(4) The Chief Commissioner and other Commissioners of the Bureau shall hold office for five years or until they attain the age of sixty years, whichever is earlier.

Duties of the
Bureau.

151B. (1) The duties of the Bureau shall be the following, namely:—

(a) to inquire or cause an inquiry or investigate or cause an investigation on a reference made by the Central Government or Police establishment of a Union territory on an allegation of an offence committed under any law for the time being in force;

(b) *suo-moto* inquire or cause an inquiry or investigate or cause an investigation to be made in any allegation of an offence committed under any law for the time being in force in a Union territory, whether any reference has been made or not;

(c) advise the Central Government on investigation made in any case or use of methods for investigations;

(d) take necessary preventive steps in case the Bureau apprehends that an offence is likely to be committed;

(e) make arrest, search any premises, call for such information or records from any authority, office, establishment or individual for efficient functioning;

(f) take such steps, which in the opinion of the Bureau, are necessary in the interest of the investigation or inquiry or prevention in relation to an offence.

(2) The recommendations of the Bureau in each case shall be final and implemented by the Central Government.

Secretariat of
Bureau.

151C. (1) There shall be set up a Secretariat to be known as "Central Bureau of Investigation Secretariat" and it shall be headed by an Assistant Commissioner.

(2) The Central Government shall make available such officers and staff as may be requisitioned by the Bureau from time-to-time.

(3) All the expenses of the Bureau including salaries and allowances of Commissioners of Bureau shall be charged upon the Consolidated Fund of India.

Inquiry or
Investigation
of Cases arising
in States.

151D. (1) If a complaint is received from or made by a State Government or any individual or any organisation, the Chief Commissioner shall inquire or cause an inquiry or investigate or cause an investigation to be made in any allegation of an offence committed under any law for the time being in force in that State.

(2) The State Government shall make available all necessary information, records, evidence, material and documents to the Bureau to facilitate the Bureau in its functioning.

(3) Where any inquiry or investigation is under progress, the case shall not be dealt with by the Police establishment of that State.

(4) The inquiry report and its recommendations by the Bureau shall be implemented by the State Government."

STATEMENT OF OBJECTS AND REASONS

At present, Central Bureau of Investigation is under the control of the Central Government. As such, the Bureau is unable to function independently and properly. There has been a persistent demand from all quarters that the Bureau should be made an autonomous organisation.

With a view to giving full autonomy to Central Bureau of Investigation to discharge its functions independently and efficiently and without any fear or favour or any sort of influence, it is proposed to give the Bureau constitutional status. Central Bureau of Investigation should be vested with the powers to investigate or inquire cases *suo-moto* and also to investigate cases referred to it by the State Governments. The action recommended by the investigation authority shall be final and implemented by all concerned.

Hence this Bill.

NEW DELHI;

G. S. BASVARAJ

February 9, 2000.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for establishment of a Central Bureau of Investigation consisting of a Chief Commissioner and three other Commissioners. It also provides for establishment of a Central Bureau of Investigation Secretariat consisting of such officers and staff as may be required. The Bill, if enacted will involve expenditure from the Consolidated Fund of India in respect of administration of the Bureau and Secretariat. The Bureau is already functioning. However, it is estimated that an annual recurring expenditure of about rupees ten lakh is likely to be involved from the Consolidated Fund of India.

A non-recurring expenditure of about rupees ten lakh is also likely to be involved.

BILL NO. 35 OF 2000

A Bill to provide for abolition of begging and for matters connected therewith or incidental thereto

BE it enacted by Parliament in the Fifty-first year of Republic of India as follows:—

1. (1) This Act may be called the Abolition of Begging Act, 2000.

Short title and
extent.

(2) It extends to the whole of India.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in all other cases, the Central Government;

(b) "beggar" means a person who indulges in begging;

(c) "begging" means—

(i) to soliciting or receiving alms in a public place including railways, bus stops, road sides or any other place where public has access;

(ii) exposing or exhibiting any wound, deformity or disease of self or any other person or of an animal for the purpose of soliciting or collecting alms;

(iii) allowing one self to be used as an exhibit for purpose of soliciting or collecting alms;

(d) "child" means a boy or girl who has not attained the age of eighteen years;

(e) "children home" means a children home established under Juvenile Justice Act, 1986;

53 of 1986.

(f) "prescribed" means prescribed by rules made under this Act.

(g) "receiving centre" means a centre established under this Act, where a person arrested on the ground of begging shall be kept.

Abolition of begging.

3. Begging by any person in any form is hereby abolished.

Punishment for forcing or encouraging any person for begging.

4. Whoever forces or encourages any person, including a child in his care, custody or charge, for begging or whoever uses any person as an exhibit for the purpose of begging shall be punished with rigorous imprisonment for a term which shall not be less than twenty years and may extend to twenty-five years in case that person collects or solicits alms by forcing two or more persons to indulge in begging.

Arrested beggars to be sent to receiving centres.

5. (1) Any person found begging shall be arrested by the police and before making every such arrest, the officer-in-charge of the concerned police station shall satisfy himself as to the bonafide of the arrested beggar.

(2) Any person, other than a child, arrested, on the ground of begging shall be sent to a Receiving Centre, to be established in every district by the appropriate Government, where in such person shall be provided with facilities for his rehabilitation.

Explanation:— For the purpose of this section, facilities for rehabilitation includes medical care, sustenance and training in agricultural or industrial or other pursuits aiming at gainful employment to the beggars.

(3) Any child arrested on the ground of begging shall be sent to a children home.

Constitution of Beggars' Welfare Fund.

6. The Central Government shall constitute a Fund to be called the Beggars' Welfare Fund for the welfare of the beggars.

Formulation of Schemes, plans for beggars.

7. (1) The appropriate Government shall formulate such schemes, work out such plans, including plans for provision of education, and create such suitable infrastructure in every district to enable beggars to take up suitable jobs for earning their livelihood.

(2) The appropriate Government shall set up destitute homes in every district for providing food, shelter and protection to the old, infirm, helpless and destitute persons to ensure that they do not indulge in begging.

Punishment for maiming.

8. Any person who maims himself or other person for the purpose of soliciting or collecting alms shall be punished with rigorous imprisonment for a term which may extend to twenty years.

Offences to be cognizable and non-bailable. Power to make rules.

9. Notwithstanding anything contained in any other law for the time being in force, an offence under this Act shall be cognizable and non-bailable.

10. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

For the last fifty years of our independence Government has failed to check and abolish begging in the country. Despite welfare measures taken by the Central and the State Governments, begging continues unabated all over the country, especially in the metropolitan cities and urban centres.

In cities, beggars are seen lurking and forcing even foreign visitors to pay for alms, such unwarranted acts do not only leave bad impression in the minds of visitors but also bring dishonour to the name of nation.

Drives launched by different State Governments and Union Territory Administrations and anti-begging legislation enacted by various State Legislatures so far have failed to curb and even contain this menace, which has assumed criminal proportions.

To root-out the menace of begging from the country, a national perspective has to be created, by developing an infrastructure to tackle begging not only by a legal framework but socially creating an environment of accommodation and acceptance of beggars in the society, to assure them a life with dignity. Therefore, it is necessary to create an atmosphere so that beggars are provided with sufficient means of livelihood by the Government.

Hence, this Bill.

NEW DELHI;
February 9, 2000

G. S. BASVARAJ

FINANCIAL MEMORANDUM

Clause 5 of the Bill provides for establishment of "Receiving Centres" by the appropriate Government. Clause 6 of the Bill provides for establishment of Beggars' Welfare Fund by the Central Government. Clause 7 of the Bill provides for formulation of schemes and creating suitable infrastructure in every district. The Central Government would have to incur expenditure from the Consolidated Fund of India for the establishment of receiving centres, destitute homes and for formulation of schemes and creating suitable infrastructure in respect of Union Territories. As far as the establishment of receiving centres, destitute homes and formulation of schemes and creating suitable infrastructure in the States are concerned, the State Governments will incur expenditure from their respective Consolidated Funds. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees eight hundred crore per annum.

A non-recurring expenditure of about rupees forty crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 49 OF 2000

A Bill further to amend the Code of Criminal Procedure, 1973.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Code of Criminal Procedure (Amendment) Act 2000. Short title and commencement.

(2) It shall come into force at once.

2 of 1974.

2. In section 320 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code), in sub-section (1), in the Table, against sections 497 and 498, for the existing entries in column (3), the following entries shall be substituted, namely:— Amendment of section 320.

“the wife of the husband or the husband of the woman.”

3. In the First-Schedule to the Code, in Chapter XX-Offences relating to Marriage, against sections 494 to 498 in column (2), for the words in columns (4) and (5), the following words shall be substituted, namely:— Amendment of the First Schedule.

Column 4

“cognisable

Column 5

non-bailable.”

STATEMENT OF OBJECTS AND REASONS

Women are the weaker section of the society. Majority of them are illiterate, innocent and poor. They are cheated by menfolk. Husbands marry second time even when their first wives are alive. But, unfortunately, the law does not provide for stringent punishment for bigamous marriage.

Womenfolk have to undergo untold hardship whenever cases of bigamy are filed. They have to attend court everyday for hearing which gets postponed due to many reasons. They have to shell out enough money for litigation and also to undergo mental stress. Sometimes they are not able to attend hearings in courts due to many reasons with the result that the case is decided ex-parte, i.e. in favour of the erring husband.

At present, the punishment provided for bigamy, adultery or fraudulent marriages is meagre. Such offences are non-cognisable and bailable.

Moreover, there is no provision for compounding of offences by affected persons in case of offences relating to marriages. For example, in case of adultery, the offence cannot be compounded by the wife of the erring husband. Such provision is illogical and against principles of natural justice.

With a view to relieving womenfolk from hardship, mental stress, financial hardship, unnecessary litigation, it is proposed to make all offences relating to marriages cognisable and non-bailable. Such a provision already exists in the State of Andhra Pradesh.

It is high time women are emancipated from the clutches of erring menfolk. Such a measure in the millennium will bring relief to women.

NEW DELHI;
February 15, 2000.

A. P. JITENDRA REDDY

BILL No. 47 OF 2000.

A Bill to provide for protection and welfare of cine workers and for matters connected therewith.

1. (1) This Act may be called the Cine Workers' Welfare Act, 2000.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "cine worker" means any worker who is above the age of eighteen years and who is employed in any unit of the cinema field like production, editing, cinematography, stunt, choreography, costume, outdoor units either permanently or temporarily or on contract basis;

(b) 'prescribed' means prescribed by rules made under this Act.

Condition of
service.

3. The Central Government shall, after taking into consideration the working conditions of cine workers, take all such steps as are necessary for the protection and betterment of the conditions of service of cine workers.

Establishment
of cine
workers'
welfare fund.

4. (1) The Central Government shall establish a fund to be known as the Cine Workers Welfare Fund with a corpus fund, as may be required.

(2) The Central Government and the State Governments shall contribute to the Fund in such ratio as may be prescribed.

Utilisation of
fund.

5. The Fund established under section 4 shall be utilised for the following purposes, namely:—

(a) adequate life insurance cover to the cine workers;

(b) free medical care to the cine workers;

(c) financial assistance to the cine workers in case of loss of wages, illness and financial crisis;

(d) unemployment allowance to the workers who were retrenched or whose units were closed permanently; and

(e) free education to the children of cine workers.

Act to have
overriding
effect.

6. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force.

Power to make
rules.

7. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of the Act.

STATEMENT OF OBJECTS AND REASONS

At present, a large number of cine workers are in abject poverty, in financial crisis and in loss of wages due to recession or retrenchment in the various units of the Cinema Industry. Cinema which provides wholesome entertainment to the mass, contributes to national unity and promotes art and culture is threatened with video piracy and satellite television channels and consequently the workers in the Cinema industry are losing employment day by day. It is, therefore, necessary that the Central Government should, as a welfare State, provide a corpus fund for the protection and betterment of the conditions of service of cine workers.

Hence this Bill.

NEW DELHI;
February 17, 2000.

U. V. KRISHNAM RAJU

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for the establishment of a Cine Workers' Welfare Fund with a corpus fund as may be required in which contribution shall be made by the Central Government as well as the State Governments in such a ratio as may be prescribed.

The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty crore per annum. It is also likely to be involved a non-recurring expenditure of about rupees one hundred crore.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

Since the rules to be made will relate to matters of procedure and administrative detail only, the delegation of legislative power is of a normal character.

BILL NO. 44 OF 2000

*A Bill to provide for the establishment of a permanent Bench of the High Court of
Andhra Pradesh at Visakhapatnam.*

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the High Court of Andhra Pradesh (Establishment of a Permanent Bench at Visakhapatnam) Act, 2000.

Short title .

2. There shall be established a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam and such Judges of the High Court of Andhra Pradesh, being not less than three in number, as the Chief Justice of that High Court may from time to time depute, shall sit at Visakhapatnam in order to exercise the jurisdiction and power for the time being vested in that High Court in respect of cases arising in the districts of Visakhapatnam, Vizianagaram, Srikakulam, East Godavari and West Godavari districts.

Establishment
of a Permanent
Bench of the
High Court of
Andhra
Pradesh at
Visakhapatnam.

STATEMENT OF OBJECTS AND REASONS

There has been a persistent demand for setting up of a permanent Bench of the High Court of Andhra Pradesh in Coastal region of the State for the past many years. More than twenty thousand cases have been pending in Andhra Pradesh High Court for quite a long time.

Visakhapatnam city is a prominent central place for the coastal Andhra Pradesh where all infrastructure facilities including communication and transport are available. At present, the people belonging to the districts of coastal region of the State have to travel a long distance to reach Hyderabad in connection with their cases which is a time consuming and expensive affair. In the interest of cheap and speedy justice and for the convenience for the litigant public, it is imperative to establish a permanent Bench of the High Court of Andhra Pradesh at Visakhapatnam.

Hence this Bill.

NEW DELHI;
February 17, 2000

U. V. KRISHNAM RAJU

BILL No. 62 OF 2000

A Bill further to amend the Representation of the People Act, 1951.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of People Act, 2000.

Short title and
commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In section 29A of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act), after sub-section (5), the following sub-section shall be inserted, namely:—

Amendment of
section 29A.

“(5A). Every application under sub-section (1) shall contain a specific provision that the association or body shall ensure that there shall be not less than forty percent. of the candidates belonging to either gender out of the total number of candidates contesting elections to the House of the People or the Legislative Assembly of a State in the name of that association or body.”.

3. After section 29A of the Principal Act, the following section shall be inserted, namely:—

Insertion of new
section 29B.

“29B. If any association or body which has been registered as a political party does not comply with provision of sub-section (5A) of section 29A, the registration of such political party shall be cancelled by the Election Commission forthwith.”.

STATEMENT OF OBJECTS AND REASONS

Women constitute fifty percent. of the population of India. But they are grossly under represented in legislative bodies and have no say in the affairs of the nation. It is, therefore, necessary to involve women in decision making process and also to give them fair representation in legislatures. It is, therefore, proposed to amend the Representation of the People Act, 1951 with a view to make it obligatory on the part of political parties to give fair representation to both gender to qualify it for registration. It is also proposed to cancel the registration of a political party if that party does not field candidates at elections to Lok Sabha/Assemblies from both the genders proportionately.

NEW DELHI;
February 28, 2000.

KRISHNA BOSE

BILL No. 70 OF 2000.

A Bill to prohibit the publication of pre-election survey.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1.(1) This Act may be called the Prohibition of Publication of Pre-Election Survey Act, 2000.

Short title and
commence-
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “election” means an election to fill a seat or seats in either House of Parliament or either House of the Legislature of a State; and

(b) “express” means and includes expression through printing or publication in a newspaper or a book or telecast/broadcast through television/radio network or internet or by through any other means to which the public has access.

3. No person shall express or cause to be expressed any opinion on the result of any election, before the completion of process of election.

Prohibition of
publication of
pre-election
survey.

Explanation.—In this section person includes any organisation or agency.

4. If any person violates the provisions of section 3,—

Punishment.

(i) he shall be punished with imprisonment for a term not exceeding one year; and

(ii) the registration or licence given to such an organisation or agency under any law for the time being in force, shall be cancelled.

5. This Act shall have effect, notwithstanding anything contained in any other law for the time being in force or any decree or judgement or order by any court or authority having judicial powers.

Act to have
over-riding
effect.

STATEMENT OF OBJECTS AND REASONS

India is a very large country and therefore, elections to Lok Sabha and State Legislatures are held in many phases. It has been observed that various agencies start publishing pre-poll survey about the victory or defeat of political parties on the completion of the first phase of the elections itself. As a result, there is every possibility that the voters in other constituencies where elections are to be held, can be influenced. Keeping this fact in view, the Election Commission had put a ban on such surveys. However, the court struck down it and as a result thereof various agencies started publishing their pre-poll survey. This causes confusion among the voters of other constituencies where the polling process is yet to be completed.

Hence it is necessary to enact a legislation to ensure that the voters are not influenced by these surveys and fair elections are held without any fear or favour.

Hence this Bill.

NEW DELHI;
March 2, 2000.

RAGHUVANSH PRASAD SINGH

BILL NO. 76 OF 2000

A Bill to provide for the prevention of corruption and disclosure of assets by Ministers, elected representatives, civil servants and businessmen for public scrutiny and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Corruption (Establishment of a Commission) Act, 2000.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent and
commence-
ment.

Application of
the Act.

2. This Act shall apply to:—

- (i) civil servants;
- (ii) elected representatives; and
- (iii) businessmen.

Definitions.

3. In this Act, unless the context otherwise requires,—

(i) "assets" includes all properties, both movable and immovable, held by a person or by his dependants, legally or benami within the country and/or abroad;

(ii) "businessman" means and includes a person who is engaged in any business, trade, commerce, service or manufacture construction or any adventure or concern in the nature of trade, commerce or manufacture or service or construction and earns more than rupees twenty thousand or more per month or pays income-tax or any other tax to the Union or the State Government under any law for the time being force;

(iii) "Chairman" means and includes Chairman of the Council of States, Chairman of Legislative Council of a State and Chairman of any Municipal body or Panchayat Institution or by whatever name he is called;

(iv) "civil servant" means and includes a person appointed to public services and posts in connection with the affairs of the Union or a State or local body including an employee of an Organisation or a Corporation or a Company or a Firm or an Institution owned or aided or controlled by the Union or a State or any other Authority established under any law or statute;

(v) "Commission" means a Commission established under section 4;

(vi) "dependant" includes spouse, parents, sons and unmarried daughters;

(vii) "elected representatives" means and includes a Member of Parliament or a Member of State Legislature or a Member of any Municipal body or any Panchayat Institution;

(viii) "Minister" means a Minister in the Union or in a State;

(ix) "prescribed" means prescribed by rules made under this Act; and

(x) "Speaker" means the Speaker of the House of the People or the Legislative Assembly of a State.

Establishment
of a Commis-
sion for
corruption at
the Centre and
State level.

4. (1) There shall be established a Commission to be known as the Commission for Prevention of Corruption at the Centre and in every State.

(2) The Commission at the Centre shall be headed by a retired Judge of the Supreme Court and shall consist of such other number of members, as may be prescribed.

(3) The Commission in the State shall be headed by a retired Judge of the High Court and shall consist of such other number of members, as may be prescribed.

(4) (i) The Chairman and other members of the Commission at the Centre shall be appointed by a Committee headed by the Prime Minister and consisting of the Speaker of the House of the People, Union Home Minister and the Leader of Opposition in the House of People.

(ii) The Chairman and other members of the Commission in a State shall be appointed by a Committee headed by the Chief Minister and consisting of Speaker of the Legislative Assembly of the State, Home Minister and the Leader of Opposition in the respective State Legislative Assembly.

Headquarters
of Commis-
sion.

5. (1) The headquarters of the Central Commission shall be at New Delhi.

(2) The headquarters of a State Commission shall be at the respective State capital.

6. The Commission shall perform the following functions:—

(i) to thoroughly examine the details of assets of every Ministers, elected representative, civil servant and businessman within the country and abroad;

(ii) to call for any detail it may require in connection with the proper examination of the documents;

(iii) maintain a register containing therein complete details and other information regarding the assets of individual, year-wise;

(iv) publish a directory or a booklet containing details of assets of all persons to whom this Act applies for the public use on payment basis;

(v) suggest any other measures as it deems fit so as to contain the corruption prevalent in the high places of society; and

(vi) to perform such other work as may be assigned to it from time to time.

7. The respective Government shall provide sufficient number of staff to the Commission for conducting its business efficiently.

8. (1) Every Minister and an elected representative as defined in section 3 shall submit to the Speaker and the Chairman, as the case may be, complete details of assets owned by him and his dependants in such form and manner, as may be prescribed.

(2) The Speaker and the Chairman, as the case may be, shall forward the details of assets submitted to him to the respective Commission.

9. Every civil servant shall submit the details of his assets owned by him and his dependants in such form and manner, as may be prescribed to his appointing authority who shall cause the same to be forwarded to the respective commission.

10. Every businessman shall submit the complete details of assets owned by him and his dependants to the respective Commission, in such form and manner, as may be prescribed.

11. (1) Whosoever fails to submit or does not submit the complete detail of assets owned by him and any of his dependants to the respective authority shall be subject to such punishment as may be deemed necessary by the respective Commission.

(2) An offence under sub-section (1) shall be cognisable.

12. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purpose of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters:—

(i) the form in which the declaration of assets shall be submitted;

(ii) the manner in which the declarations shall be scrutinised;

(iii) the action to be taken in case of declaration of assets submitted by Minister or elected representative or civil servant or a businessman, is false;

(iv) the action to be taken in case of delay in declaration of assets; and

(v) any other matter that is necessary to carry out the provisions of this Act.

Functions of the Commission.

Provision for staff to the Commission.

Submission of complete details of assets by Ministers and elected representatives.

Submission of details of assets by civil servants to the appointing authority.

Submission of details of assets by businessmen to respective Commission.

Punishment in case failure of submission of details of assets.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There is rampant corruption in public life throughout the country. Corruption has become a major problem in public life. It is evident that influential persons in high positions have amassed huge assets disproportionate to the known sources of their income. They are spending money openly more than that of their legitimate incomes. This is a corrupt practice which has brought disgrace to the esteemed institutions of the nation. Transparency is the only major solution to end corruption. Therefore, annual disclosure of assets/property owned or possessed by the Minister, Members of Parliament, Civil Servants and Businessmen and their dependants is imperative in order to restore public faith in the political system. It will help in curbing the corruption which is plaguing public life and put a check on the growing tendency of acquiring easy wealth/property among general public through corrupt practices.

Hence the Bill.

NEW DELHI;
March 2, 2000.

RAGHUVANSH PRASAD SINGH

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Central Government shall establish a Commission for prevention of corruption at the Centre, consisting of a retired Judge of the Supreme Court and other members to examine assets held by Ministers, elected Representatives, Civil servants and businessmen within the country/abroad. Necessary provision for State Commission has also been made.

Clause 7 provides that respective Government shall provide sufficient number of staff to the Commission for conducting its business effectively. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty lakh is likely to be involved per annum from the Consolidated Fund of India. A non-recurring expenditure of about rupees one crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to frame the rules for carrying out the purposes of the Bill. As the rules to be framed will relate to matters of detail only, the delegation of legislative power is of a normal character.

BILL NO. 55 OF 2000

A Bill further to amend the Representation of the People Act, 1951

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title and
commence-
ment.

1. (1) This Act may be called the Representation of the People (Amendment) Act, 2000.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of
section 11A.

2. Sub-section (2) of section 11A of the Representation of the People Act, 1951 shall be omitted.

43 of 1951.

STATEMENT OF OBJECTS AND REASONS

Section 11A of the Representation of the People Act, 1951 provides that any person disqualified by a decision of the President under sub-section (1) of section 8A for any period shall be disqualified for the same period for voting at such election. This provision was inserted in the Act in 1975. This provision is draconian.

The disenfranchisement of a citizen is undemocratic and casts an unhappy reflection on our democratic system. The disenfranchisement of a citizen, is *ultra vires* of the letter and spirit of the Constitution and was never envisaged by the founding fathers of our constitution. It is a legal and constitutional aberration and needs to be set right.

Hence this Bill.

NEW DELHI;

ANANT GANGARAM GEETHI

March 2, 2000.

BILL NO. 57 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment of
Sixth Schedule.

2. In Sixth Schedule to the Constitution,—

(i) in the heading, after the word “Tripura”, the words, “Himachal Pradesh” shall be inserted;

(ii) in sub-paragraph (1) of paragraph 1, for the words and figure “and in Part III”, the words and figures, “Part III and in Part IV” shall be substituted;

(iii) after paragraph 12B, the following paragraph shall be inserted, namely:—

“12C. Notwithstanding anything in this Constitution,—

(a) if any provision of a law made by a District or Regional Council in the State of Himachal Pradesh with respect to any matter specified in sub-paragraph (1) of paragraph 3 of this Schedule or if any provision of any regulation made by a District Council or a Regional Council in that State under paragraph 8 or paragraph

Application of
Acts of Parliament
and of the Legisla-
ture of the State of
Himachal Pradesh
to autonomous
district and au-
tonomous region
in the State
of Himachal
Pradesh.

10 of the Schedule, is repugnant to any provision of a law made by the Legislature of the State of Himachal Pradesh with respect to that matter, then, the law or regulation made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of the State of Himachal Pradesh, shall, to the extent of repugnancy, be void and the law made by the Legislature of the State of Himachal Pradesh shall prevail;

(b) the President, with respect to any act of Parliament, by notification, direct that it shall not apply to an autonomous district or an autonomous region in the State of Himachal Pradesh, or shall apply to such district or region or any part thereof subject to such exception or modifications as he may specify in the notification and any such directions may be given so as to have retrospective effect.”;

(iv) in paragraph 17, for the words,—

“or Tripura”, wherever it occurs, the words “or Tripura or Himachal Pradesh or”, shall be substituted;

(v) in paragraph 20,

(a) in sub-paragraph (1),—

(i) for the word and the figure “and III”,

the word and figures, “III and IV” shall be substituted;

(ii) after the words “the State of Tripura”, the words, “the State of Himachal Pradesh” shall be inserted;

(b) in the Table, after Part III, the following Part shall be inserted, namely,—

“PART IV

1. Girpar area.”.

STATEMENT OF OBJECTS AND REASONS

Himachal Pradesh is a hilly State and consists of small hills and hillocks. It consists of mini tribal areas. People belonging to Garo area have the same characteristics as that of tribal people living in other States. They are innocent and adopt the same customs and practices that are adopted by most of the tribal people in the country. They do not have even basic facilities and it may not be too much to say that they have not seen the civilized world.

A special provision and dispensation has been made for the tribal areas located in certain North Eastern States. The same provision is sought to be extended to this area also with a view to facilitating fast development and protecting the ethnic culture and tradition of this tribal people. Accordingly, it is proposed to amend the Constitution to make provision in this regard.

NEW DELHI;
March 14, 2000.

DHANI RAM SHANDIL.

BILL NO. 72-F OF 2000

A Bill further to amend the Code of Criminal Procedure, 1973.

Enacted by Parliament in the Fifty first Year of the Republic of India as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 2000.

Short title.

2. Section 167 of the Code of Criminal Procedure, 1973 (hereinafter referred to as the Code),—

Amendment of section 167.

(a) in section (2), in the proviso, in clause (a),—

(i) in sub-clause (i), for the words “ninety days”, the words “forty-five days” shall be substituted;

(b) in sub-clause (ii), for the words “sixty days”, the words “thirty days” shall be substituted.

(c) in sub-section (5), for the words “six months”, wherever they occur, the words “three months” shall be substituted.

- Amendment of section 202. 3. In section 202 of the Code, in sub-section (1), after the existing proviso, the following proviso shall be inserted, namely:—
“Provided further that no proceedings regarding issue of process shall be postponed beyond a period of two months”.
- Amendment of section 230. 4. In section 230 of the Code, the following proviso shall be added at the end, namely:—
“Provided that the date so fixed by the Judge shall not be more than fifteen days from the date of order to this effect.”.
- Amendment of section 242. 5. In section 242 of the Code, in sub-section (1), the following proviso shall be inserted at the end, namely:—
“Provided that the date so fixed by the Magistrate shall not be more than fifteen days from the date of order to this effect.”.
- Amendment of section 256. 6. In section 256 of the Code, in sub-section (1), before the existing proviso, the following proviso shall be inserted, namely:—
“Provided that the hearing shall not be adjourned for more than fifteen days.”.
- Amendment of section 258. 7. In section 258 of the Code, the following proviso shall be added at the end, namely:—
“Provided that the proceedings at any stage shall not be stopped for a period exceeding thirty days.”.
- Amendment of section 289. 8. In section 289 of the Code, for the words “specified time reasonably sufficient” the words “specified time which shall not be more than thirty days” shall be substituted.
- Amendment of section 309. 9. In section 309 of the Code, in sub-section (2), for the first proviso, the following proviso shall be substituted, namely:—
“Provided that no inquiry or trial shall be postponed or adjourned beyond fifteen days”;
“Provided further that no Magistrate shall demand an accused person to custody under this section for a term exceeding five days”.
- Amendment of section 468. 10. In section 468 of the Code, in sub-section (2)—
(i) in clause (a), for the words six months, the words three months shall be substituted;
(ii) in clause (b), for the words “one year, if the offence”, the words “six months, if the offence” shall be substituted;
(iii) in clause (c), for the words “three years, if the offence”, the words “one year, if the offence” shall be substituted.
- Omission of section 473. 11. Section 473 of the Code shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Millions of cases of various nature are pending in several courts for a long time. Out of them, many cases are pending to the extent that even the persons who have filed the original cases are no more.

Cases are adjourned for petty reasons and in some cases, for a long time. There is a maxim "Justice delayed is justice denied". Since it takes a longtime for disposal of a case, the importance of the case is lowered and the victims are deprived of their due right. In many cases, cause of action becomes irrelevant or infructuous.

The procedure followed in courts is a very lengthy one. Too many formalities are observed even for admitting a suit. An attempt has been made, through this Bill, to reduce the time taken for disposal of cases in order to make justice available to the deprived persons speedily.

NEW DELHI;

DHANI RAM SHANDIL.

March 14, 2000.

BILL NO. 61 OF 2000

A Bill further to amend the Constitution of India.

Enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2000.
2. After article 371, the following article shall be inserted, namely:—

“371F (1) Notwithstanding anything contained in this Constitution, the President shall, within three months from coming into force of this Constitution (Amendment) Act, 2000, by an order, provide for the establishment of a separate Development Board with respect to the State of Himachal Pradesh.

Short title.

Insertion of
new article
371F.Special
provision
with respect
to the State
of Himachal
Pradesh.

(2) The Development Board established under clause (1) shall consist of—

- (i) the Chairman of the Union Planning Commission;
- (ii) the Union Finance Minister;
- (iii) the Chief Minister of Himachal Pradesh;
- (iv) the Finance Minister of Himachal Pradesh;
- (v) the Chairman of the Planning Board of Himachal Pradesh; and
- (vi) Members of Parliament representing Himachal Pradesh.

(3) The Chairman of the Union Planning Commission shall act as the Chairman of the Development Board.

(4) It shall be the responsibility of the Development Board to draw up and execute plans, schemes and projects in the State of Himachal Pradesh for,

- (i) providing adequate infrastructure facilities like drinking water, roads, sanitation and communication facilities;
- (ii) development of tribal areas with special attention to basic facilities;
- (iii) generating adequate employment opportunities;
- (iv) special development of hilly and inaccessible areas;
- (v) providing adequate rail transport facilities;
- (vi) providing for generating adequate electricity;
- (vii) improvement and promotion of tourism and
- (viii) taking such steps as it may deem necessary for overall development of the State.

(5) The Union Government shall provide adequate funds for the development of the State of Himachal Pradesh and for projects and plans as may be taken up by the Development Board.

(6) The Development Board shall submit an annual report to the Union every year.

(7) The Union shall cause the report to be laid before each House of Parliament.

STATEMENT OF OBJECTS AND REASONS

Himachal Pradesh consists of small and big hills. It is a backward State and awfully lacks basic facilities. There are many tribal areas which have not yet seen civilisation. There is no adequate infrastructure facilities such as roads, electricity, rail, communication etc. in the State. With the existing funds in the State, it will not be possible to create infrastructure facilities and employment opportunities.

Therefore, it is proposed that the Central Government should make available adequate funds for development of the State. A special provision in the Constitution will hasten this process. It is accordingly proposed to amend the constitution.

NEW DELHI;
March 14, 2000.

DHANI RAM SHANDIL.

FINANCIAL MEMORANDUM

The Bill provides for making available adequate funds for the development of Himachal Pradesh. The Bill, therefore, if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees two thousand crore may be involved.

A non-recurring expenditure of about rupees ten thousand crore may also be involved. This expenditure will be involved for some years till adequate facilities have been created in the State.

BILL No. 66 OF 2000

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows :—

Short title and
commence-
ment.

1. (1) This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2000.

(2) It shall come into force at once.

Amendment of
the Schedule.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part V—
Himachal Pradesh, after entry 8, the following entry shall be inserted, namely:—

“9. Hatti.”

STATEMENT OF OBJECTS AND REASONS

Himachal Pradesh is a hilly State. The State is covered under the Himalayan terrain. Most of the people living in the State are poor and belong to tribal areas.

Hatti is also a tribe in Himachal Pradesh. The inhabitants are practising the same customs and practices as are being practised by other tribal people. They are very shy and keep away from strangers just like other tribal people. They do not have basic infrastructure facilities.

The people belonging to Hatti tribe are mostly illiterate, economically and socially backward. It is essential that Hatti tribes should be given all facilities and opportunities for their around development. It may be mentioned that the people living in the hilly area of Uttar Pradesh under the same set of circumstances, facing same problems, speaking same dialect, following similar customs have been given the facilities being provided to the tribal regions. This has resulted in the resentment in the minds of simple people of Himachal Pradesh, living in trans-Giri areas.

It is, therefore, proposed to include Hatti tribe in the list of Scheduled Tribes so as to benefit people belonging to that tribe.

NEW DELHI;
March 14, 2000.

DHANI RAM SHANDIL

BILL NO. 63 OF 2000

A Bill further to amend the Constitution (Scheduled Tribes) Order, 1950.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

- | | |
|--|-------------------------------|
| 1. This Act may be called the Constitution (Scheduled Tribes) Order (Amendment) Act, 2000. | Short title. |
| 2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part II—
Assam, after entry 14, the following entries shall be inserted, namely:— | Amendment of
the Schedule. |
| “15. Ahoms | |
| 16. Chutias | |
| 17. Koch-Rajbangshi | |
| 18. Moran-Motaks | |
| 19. Tea-Tribes.”. | |

STATEMENT OF OBJECTS AND REASONS

The proposal for enlisting the Koch-Rajbangshi, the Ahoms, the Tea Tribes, the Chutias and the Moran-Motaks as Scheduled Tribes in relation to the State of Assam was referred to a Select Committee chaired by Shri Amar Roy Pradhan, M.P., in the Eleventh Lok Sabha. The Committee recommended that all these Communities be enlisted as Scheduled Tribes by amending the Constitution (Scheduled Tribes) Order, 1950.

The present Bill seeks to achieve the above objective.

NEW DELHI;
March 16, 2000.

PABAN SINGH GHATOWAR

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to include the Koch-Rajbangshi, the Ahoms, the Tea Tribes, the Chutias, the Moran-Motaks of Assam in the Constitution (Scheduled Tribes) Order as Scheduled Tribes. This shall involve only a nominal recurring and non-recurring expenditure for the benefits to be provided to the eligible persons of these Tribes, under various existing schemes, but the expenditure likely to be required will not be large and no extra budgetary provision may be necessary for the Ministry of Tribal Affairs.

BILL No. 64 OF 2000

A Bill further to amend the Constitution (Scheduled Tribes) Orders, 1950.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows :—

1. This Act may be called the Constitution (Scheduled Tribes) Orders (Amendment) Act, 2000ⁿ Short title.

2. In the Schedule to the Constitution (Scheduled Tribes) Order, 1950, in Part II, Assam, entries 10 to 14 shall be renumbered as entries 11 to 15 respectively, and before entry 11 as so renumbered, the entry “10. Koch-Rajbangshi” shall be inserted. Amendment of the Schedule.

STATEMENT OF OBJECTS AND REASONS

The Koch-Rajbangshi are indigenous kirat tribals of north-eastern India known as Koch and Mech who organised themselves under the command of 12 tribal leaders headed by one Haria even before Hiuyen Chang visited India and repulsed the attacks of aliens and founded the Koch dynasty in the early part of the fifteenth century. King Naranarayan with the assistance of his brother Chilarai conquered almost all the feudal rulers and built conglomerate of other tribals. The rulers protected their farmers and their families who were peace-loving, shy, backward and confined to their habitats. Though the Koch-Rajbangshi are indigenous of ancient Kamrupa whose domain spread to Terai Nepal, Eastern Bihar, Southern Tripura and Upper Assam, they continued to remain weak, backward, primitive, isolated tribal and tillers of the soil.

The Koch-Rajbangshi prince surrendered his Part C State Kochbihar in 1950. Though Koch and Rajbangshis tribes of West Bengal and Tripura were scheduled as "Castes", the tribes of Assam and Meghalaya were left unrecognised.

The Koch-Rajbangshis of Assam are agitating since 1967 and making persistent demand for enlistment of their tribe in the Constitution (Scheduled Tribes) Order, 1950. They meet the criteria that fit into any tribal ethnic community of Eastern India.

A section of the Koch-Rajbangshis have given up old customs and practices and got initiated to Sanatan school of Hindu religion, but their culture remains that ancient. The State Legislative Assembly of Assam in 1994 and 1995, has passed unanimously resolutions to recommend to the Government of India that the Koch-Rajbangshis of Assam State be enlisted as a scheduled tribe. The Koches tribes of Meghalaya were enlisted after the Union Government received a unanimous resolution of the Meghalaya State Assembly without any debate.

The Registrar General of India in his report to the State Government has estimated the number of Koch-Rajbangshis to be under sixteen lakhs only in the whole State. On being enlisted as Scheduled Tribes, they can never upset the tribal demographic structure of Assam. It has, therefore, become imperative that the Koch-Rajbangshis of the State of Assam be enlisted in the Constitution (Scheduled Tribes) Orders, 1950.

Hence this Bill.

NEW DELHI;
March 16, 2000.

MADHAB RAJBANGSHI

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to include the Koch-Rajbangshis of Assam in the Constitution (Scheduled Tribes) Order as a Scheduled Tribe. This shall involve only a nominal recurring and non-recurring expenditure for the benefits to be provided to the eligible persons of this tribe, under various existing schemes, but the expenditure likely to be required will not be large and no extra budgetary provision may be necessary for the Ministry of Tribal Affairs.

BILL NO. 65 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Substitution of
new Schedule
for Tenth
Schedule.

2. For Tenth Schedule to the constitution, the following Schedule shall be substituted, namely:—

"TENTH SCHEDULE

[ARTICLES 102(2) AND 191(2)]

Provisions as to disqualification on ground of defection

1. **Interpretation**—In this Schedule, unless the context otherwise requires,—

(a) "House" means either House of Parliament or the Legislative Assembly or, as the case may be, either House of the Legislature of a State;

(b) "legislature party" in relation to a member of a House belonging to any political party means the group consisting of all the members of that House for the time being belonging to that political party;

(c) "paragraph" means a paragraph of this Schedule; and

(d) "political party" means a political party classified as recognised political party or a registered political party under any law or any rule, regulation, order or notification having the force of law with respect to matters relating to, or in connection with, elections to either House of Parliament or the Legislative Assembly or as the case may be, either House of the Legislature of a State.

2. Disqualification on ground of defection. A member of a House belonging to any political party shall be disqualified for being a member of that House,—

(a) if he has voluntarily given up his membership of such political party; or

(b) if he has been expelled from such political party in accordance with the provisions of the Constitution or rules of that political party; or

(c) if he votes or abstains from voting in that House contrary to any direction issued by the political party to which he belongs or by any person or authority so authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority and such voting or abstention has not been condoned by such political party, person or authority within fifteen days from the date of such voting or abstention.

Explanation—For the purposes of this paragraph,—

(a) an elected member of a House shall be deemed to belong to the political party, if any, by which he was set up as a candidate for election as such member;

(b) a nominated member of a House or an elected member of a House who has been elected as such otherwise than as a candidate set up by any political party, shall,—

(i) be deemed to belong to the political party of which he becomes, or, as the case may be, first becomes a member before the expiry of six months from the date on which he takes his seat in the House; and

(ii) be liable to be disqualified for being a member of the House if he joins any political party after the expiry of six months from the date on which he takes his seat in the House.

3. Exemption.—Notwithstanding anything contained in this Schedule, a person who has been elected to the office of the Speaker or the Deputy Speaker of the House of the People or the Legislative Assembly, or the Deputy Chairman of the Council of States or the Chairman or the Deputy Chairman of the Legislative Council of a State, shall not be disqualified under this Schedule,—

(a) if he, by reason of his election to such office, voluntarily gives up the membership of the political party to which he belonged immediately before such election and does not, so long as he continues to hold such office thereafter, rejoin that political party or become a member of another political party; or

(b) if he, having given up by reason of his election to such office his membership of the political party to which he belonged immediately before such election, rejoins such political party after he ceases to hold such office.

4. Decision on questions as to disqualification on ground of defection. (1) If any question arises as to whether a member of a House has become subject to disqualification under this Schedule, the question shall be referred for the decision of the President or, as the case may be, the Governor :

Provided that the President or, as the case may be, the Governor shall not

entertain any question as to whether a member of a House has become subject to disqualification under this Schedule unless the question has been referred for his decision—

(i) by the political party or, as the case may be, by the Legislature Party to which such member belongs to, or through any person or authority so authorised by it in this behalf; or

(ii) by any sitting member or members of the House.

(2) Before giving any decision on any such question, the President or, as the case may be, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

(3) Where the President or, as the case may be, the Governor decides that the member has become subject to disqualification under paragraph 2 of the Schedule, such member shall stand disqualified from the date of the decision and his seat in the House shall become vacant with effect from that date.

5. Rules. (1) The President or, as the case may be, the Governor may after consultation with the Speaker or, as the case may be, the Chairman of the House, make rules for giving effect to the provisions of this Schedule, and in particular, and without prejudice to the generality of the foregoing, such rules may provide for,—

(a) the maintenance of registers or the other records as to the political parties and the legislature parties to which different members of the House belong to;

(b) the reports which the political parties or the legislature parties will be required to furnish forthwith in regard to the members belonging to those parties, including resignations or expulsion of members from political parties, persons or authorities so authorised to communicate with the Speaker or the Chairman of the House or the Election Commission and changes in the nomenclature of political and legislature parties;

(c) procedure for making complaints, disqualification of a member and the information required to be furnished in this regard;

(d) matters in which violation of a direction issued by a political party or a legislature party to vote or abstain from voting in the House in a particular manner may render the member liable to disqualification; and

(e) procedure for making inquiry into the complaints regarding disqualification of a member.

(2) The rules made under sub-paragraph (1) of this paragraph shall be laid, as soon as may be after they are made, before the House for the total period of thirty days which may be comprised in one session or in two or more successive sessions and shall take effect upon the expiry of the said period of thirty days unless they are sooner approved with or without modifications or disapproved by the House and where they are so approved, shall take effect on such approval in the form in which they were laid or in such modified form, as the case may be, and where they are so disapproved, they shall have no effect."

STATEMENT OF OBJECTS AND REASONS

The Tenth Schedule to the Constitution popularly known as Anti-Defection Law was added to the Constitution by the Constitution (Fifty-second Amendment) Act, 1985. The Tenth Schedule came into force with effect from 1st March, 1985.

2. Certain deficiencies and ambiguities have been noticed in the implementation of the provisions of the Tenth Schedule. There have been varied views by the Presiding Officers of legislatures on entertaining claims of splits in legislature parties, such as—

(a) whether splits in the legislature party should be taken note of or whether split in a political party outside the legislature should be ascertained;

(b) whether a split is a one time affair or a continuous process; and

(c) a member of the House who is expelled from his political party for his activities outside the House continues to be a member of the House. What will be the status of such member in the House? Can he join another party or form a new party with some other members?

3. Some decisions given by the Presiding Officers on the question of splits and mergers have become controversial and have brought the office of the Presiding Officers into an unnecessary controversy. Further, decisions given by the Presiding Officers have become justiciable thereby increasing the scope of conflict between the legislature and the judiciary.

4. Cases pertaining to Anti-Defection Law have to be decided in a judicial manner. Political parties as also individuals, directly or through their lawyers appear before the Presiding Officer to plead the dispute that comes before him. The Presiding Officer may or may not be acquainted with procedures involved in shifting of facts, taking evidence of parties and coming to decisions in a strictly legal manner.

5. In the present Bill, the following main changes have been suggested;

(i) Political party has been defined to include a "recognised political party" or "a registered political party" for which provisions already exist in the Representation of the People Act and the rules, made thereunder.

(ii) A member shall be liable to be disqualified if he resigns from the political party or is expelled therefrom or votes or abstains from voting contrary to the directions issued by his parent political party.

(iii) A nominated member of a House or, an elected member who has been elected otherwise than as a candidate set up by any political party, shall be liable to be disqualified if he joins any political party after the expiry of six months from the date on which he takes his seat in the House.

(iv) Paragraphs in the existing Tenth Schedule regarding splits and mergers are proposed to be omitted.

(v) It is proposed that questions regarding disqualification of a member shall be decided by the President or the Governor, as the case may be, after obtaining the opinion of the Election Commission.

(vi) It is proposed that the President or the Governor, as the case may be, shall in consultation with the Speaker or the Chairman of the House may make detailed rules under the Tenth Schedule for carrying out the purposes of the said Schedule.

The Bill seeks to achieve the above objectives.

BILL NO. 71 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-First Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Substitution of new article for article 120.

2. For article 120 of the Constitution, the following article shall be substituted, namely:—

Languages in which Business in Parliament to be transacted.

“120. Business in Parliament shall be transacted in Hindi or in English:

Provided that the Chairman of the Council of States or Speaker of the House of the People, or person acting as such, as the case may be, shall—

(i) permit a member to give notice under different class of business in accordance with the Rules of Procedure framed under article 118, in any of the languages specified in the Eighth Schedule;

(ii) permit any member who cannot adequately express himself in Hindi or in English to address the House in one of the languages specified in Eighth Schedule;

(iii) cause all business transacted in Parliament translated into all languages specified in the Eighth Schedule and circulate them to members; and

(iv) make available simultaneous interpretation facilities in all languages specified in the Eighth Schedule if and when any member addresses the House either in Hindi or in English or in any other language.”

Substitution of new article for article 343.

3. For article 343 of the Constitution, the following article shall be substituted, namely:—

"343. The official languages of the Union shall be the languages specified in the Eighth Schedule."

Official languages of the Union.

4. In article 344 of the Constitution, for clause (2), the following clause shall be substituted, namely:—

Amendment of article 344.

"(2) It shall be the duty of the Commission to make recommendations to the President as to—

(a) the progressive use of the languages specified in the Eighth Schedule for the official purposes of the Union;

(b) restriction on the use of the English language for all or any of the official purposes of the Union;

(c) the languages to be used for all or any of the purposes mentioned in article 348;

(d) the form of numerals to be used for any one or more specified purposes of the Union;

(e) any other matter referred to the Commission by the President as regards the official languages of the Union and the languages for communication between the Union and a State or between one State and another and their use."

5. For article 346 of the Constitution, the following article shall be substituted namely:—

Substitution of new article for article 346.

"346. The language used for the official purposes in a State shall be the language used for communication between the Union and that State and between the State and another State:

Official language for communication between one State and another or between a State and the Union.

Provided that a translation in the English or Hindi language, as the case may be, of the communication shall also accompany original communication."

6. In article 348 of the Constitution,—

Amendment of article 348.

(i) in clause (1),—

(a) in sub-clause (a), the words "and in every High Court" shall be omitted;

(b) the following provisos shall be added at the end, namely:—

Provided that the President shall cause to be published under his authority, the translation in the languages specified in the Eighth Schedule of all Acts passed by Parliament or of all Ordinances promulgated by the President and of all orders, rules, regulations and bye-laws issued under this Constitution or any law made by Parliament and such translation shall be deemed to be, for all purposes, the authoritative texts thereof in the languages specified in the Eighth Schedule:

Provided further that a copy of the judgement, decree or order passed or made by the Supreme Court shall be made available in the language of choice of the parties concerned.

(ii) in clause (2), the proviso shall be omitted."

7. For article 351 of the Constitution, the following article shall be substituted, namely:—

Substitution of new article for article 351.

"351. It shall be the duty of the Union to promote the spread of all languages specified in the Eighth Schedule and to develop them so that they may serve as a medium of expression for all the elements of the composite culture of India."

Duty of the Union to promote and develop of all languages specified in the Eighth Schedule.

STATEMENT OF OBJECTS AND REASONS

India is a Union of States. Thousands of dialects and languages are spoken throughout the country.

Our Parliament consists of representatives of all States and Union territories. People of one State, for lack of adequate opportunities, do not understand the language of another State.

In Parliament, by virtue of article 120, all business is conducted in English or Hindi. Members who do not understand these two languages or are not able to express themselves adequately find it very difficult to function effectively as Parliamentarians.

Whenever a member addresses the House, his speech should be simultaneously interpreted and verbatim reports thereof be translated into all languages specified in the Eighth Schedule to the Constitution so that other members may understand what the member is speaking about. This will not only enable members to function effectively, but also help in fostering unity among different States.

At present, members are required to table notices under different provisions of the Rules of Procedure and Conduct of Business in Lok Sabha/Rajya Sabha either in English or in Hindi. Since they are not well versed in either language, they are deprived from participating meaningfully in the debates.

With a view to upholding sound democratic and parliamentary system and to afford an opportunity to members to participate in the debates and function as true Parliamentarians, it is proposed that—

(i) translation/interpretation facilities should be provided in all languages mentioned in the Eighth Schedule;

(ii) members may be permitted to table notices in all languages in the Eighth Schedule; and

(iii) official languages of the Union should be the languages specified in the Eighth Schedule.

The Bill seeks to fulfil a long standing demand and aspiration of majority of people of the country.

NEW DELHI;
March 16, 2000.

A.D.K. JEYASEELAN

FINANCIAL MEMORANDUM

The Bill seeks to provide for simultaneous interpretation and also translation facility in all languages specified in the Eighth Schedule to the Constitution. It also enables members to table notices in those languages. The Bill further seeks to provide that official languages of the Union shall be the languages specified in the Eighth Schedule.

This will involve some expenditure from the Consolidated Fund of India in respect of appointment of interpreters, translators, etc. It is likely that an annual recurring expenditure of about rupees ten crore is to be involved.

A non-recurring expenditure of about rupees fifty crore is also likely to be involved for making necessary arrangements in Parliament for simultaneous interpretation and making available translation in all languages.

BILL No. 59 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Constitution (Amendment) Act, 2000.

Amendment of
article 15.

2. In article 15 of the Constitution, in clause (1), after the words "place of birth", the word "language" shall be inserted.

Amendment of
article 16.

3. In article 16 of the Constitution, in clause (2), after the words, "place of birth", the word "language" shall be inserted.

STATEMENT OF OBJECTS AND REASONS

India is a Union of many States. It may be interesting to note that thousands of dialects and languages are spoken throughout the country. Perhaps, India is the only country in the world, where so many languages are spoken. Nevertheless, India is a *sui generis* example of unity in diversity.

But, of late, it has been noticed that there has been discrimination on the ground of language. People speaking one language have some sort of aversion to people speaking another language. In fact, there has been a thinking that States should not have been reorganised on the basis of language.

Last year, around 20 candidates belonging to Tamil Nadu, although cleared the Staff Selection Examination and were eligible for appointment, faced difficulties because they do not know Kannada. It should be the Government who should lead others in the matter of upholding the traditions and constitution. In case any person does not know the language of the State, where he is posted, he should be given suitable training to learn the language of that State.

It is indeed a matter of shame and regret that even after 50 years of Independence we are unable to forget the reminiscences of British Raj who followed "Divide and Rule" policy.

The Bill seeks to amend the Constitution with a view to upholding the federal policy of the Constitution.

NEW DELHI;
March 16, 2000.

A.D.K. JEYASEELAN.

BILL NO. 67 OF 2000

A Bill to provide for protection to destitute widows and for matters connected therewith.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows :—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Widows' Protection Act, 2000.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "competent authority" means the Collector of a district or such other authority as may be prescribed and who is empowered by the Central Government for determination and sanction of pension under this Act;

(b) "destitute" in relation to a widow means a woman who has no relative or kinsman to support or provide her livelihood including the livelihood to her minor children dependent on her;

(c) "pension" means the amount which may be sanctioned in favour of a widow for her maintenance under this Act or any other law for the time being in force;

(d) "prescribed" means prescribed by rules made under this Act; and

(e) "widow" means a female citizen of India who has attained the age of eighteen years and whose husband has died after her legal marriage.

3. Any widow—

Eligibility for pension.

(i) who is a destitute;

(ii) who has no son;

(iii) who has a son who but has not attained the age of twenty years;

(iv) who has a son who has attained the age of twenty years but is incapable of earning his livelihood due to his physical and mental disability and infirmity, shall be eligible for pension:

Provided that such widow shall not be eligible for the said pension if;

(a) she is employed in any service and receives regular salary from such service; or

(b) she holds movable and immovable property including residential house worth such amount as may be prescribed from time to time; or

(c) she has a regular monthly income of more than four thousand rupees either in kind or in cash from agriculture, horticulture, animal husbandry, cottage industry, or rent from any immovable property or from any Government pension. or

Provided further that a widow who is residing with her in-laws or parents according to her custom or due to other circumstances and has an undivided share in the joint property of her collaterals or brothers, shall be eligible for such pension.

4. The Central Government shall appoint enquiry officers who shall help the competent authority in finalising the claims of pension made under this Act.

Appointment of enquiry officer.

5. (1) A widow desirous to get pension from the Central Government for her maintenance may apply to the competent authority in the prescribed form for grant of such pension.

Application for pensions.

(2) On receipt of the application form, the competent authority may, either make an enquiry or cause it to be made by an enquiry officer subordinate to it and after receiving the report from such officer, may either determine the amount of pension payable to the applicant or reject her application under intimation to her.

6. The competent authority may grant a monthly pension of minimum of rupees two thousand to a maximum of rupees five thousand to a widow for her life or for such period, as may be deemed proper, and shall draw a pension payment order accordingly in her favour on a Government Treasury.

Pensions.

7. Whenever it is found that any widow has re-married after sanction of pension, or her son has attained the age of twenty years and has become capable of earning livelihood, or the widow has not remained eligible for pension on account of any of the grounds mentioned in section 3, the competent authority may pass appropriate orders for closing the pension of such widow.

Closing of Pension.

Rights of
widow.

8. Notwithstanding anything contained in any other law for the time being in force, a widow shall have the following rights from her major son or sons:—

- (i) right to reside in the property acquired, or leased or rented by the son;
- (ii) right to adequate health care; and
- (iii) maintenance allowance for a decent life.

Son to provide
maintenance
allowance.

9. (1) In case a widow does not want to live with her son, she will be entitled to such amount as maintenance from the son every month as may be prescribed.

(2) The amount of maintenance allowance payable by a son to his mother who is a widow, shall be determined after taking into account the son's income, standard of life, any immovable property and the standard of life to which the widow enjoyed before the husband's death;

(3) Any person who does not pay maintenance allowance to a widow as per the provisions of sub-section (2), shall be punishable with one year imprisonment and a fine of rupees ten thousand.

Punishment.

10. (1) Whoever procures or abets in procuring pension by misrepresentation of facts or by making false declaration or by giving false information to or before the competent authority or any enquiry officer so appointed under section 4, shall be punishable, on a complaint, by such competent authority or enquiry officer, as the case may be, with imprisonment for a term which may extend to six months or with fine which may extend to rupees one thousand or with both.

(2) The competent authority on the conviction of a widow as indicated in sub-section (1) shall order refund by her of such amounts as she had already received as pension.

Saving.

11. This Act shall not affect the provisions of any other pension law for the time being in force but any widow deriving benefit from this Act shall not be entitled to get benefit from any other pension law.

Central
Government to
make rules.

12. The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

STATEMENT OF OBJECTS AND REASONS

It is generally found that a large number of Indian women belonging to lower and middle income groups become destitute after the death of their husbands. In our society widows are the most neglected persons. They are not cared properly by their children. Sometimes, conditions of such widows become so miserable due to poverty that unscrupulous persons of the society exploit their situation and make their lives poignant and disgraceful in the society. It is, therefore, expedient to liquidate this evil from the society and to provide for pension to such widows from the State by rendering them reasonable financial assistance for carrying on their livelihood honourably.

This Bills seeks to achieve this objective.

NEW DELHI;
March 16, 2000.

A.D.K. JEYASEELAN

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that every destitute widow shall be eligible for a pension. Clause 4 of the Bill provides for the appointment of enquiry officers. Clause 6 of the Bill envisages the payment of monthly pension ranging from rupees two thousand to rupees five thousand per month to the destitute widows. The number of such widows in the country may not be less than 50 lakhs. The grant of pension to such widows and payment of salary, etc. to enquiry officers would involve a recurring expenditure of approximately rupees six hundred crore per year. This expenditure will be met out of the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of rupees five lakhs.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill empowers the Central Government to make rules for carrying out the provisions of the Bill. As the matters will relate to detail only, the delegation of legislative power is of a normal character.

BILL No. 15 OF 2000

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2000.

Short title.

2. After article 16 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 16A.

“16A. (1) Notwithstanding anything contained in this Part, the State may make provision for reservation in favour of persons belonging to economically weaker section of the society in the posts and services under the State:

Reservation for economically weaker sections of the society in posts and services.

Provided that the percentage of reservation shall not exceed twelve percent.

(2) The provisions of clause (1) shall have effect notwithstanding anything contained in any judgement or decree or direction or order of any Court of Law or Tribunal or Authority having judicial powers to the contrary.

Explanation: For the purpose of this article,—

“persons belonging to economically weaker section of the society” means persons whose income from all sources is below rupees twelve thousand per annum but shall not include persons belonging to the Scheduled Castes, Scheduled Tribes and socially and educationally Backward Classes.”

3. After article 29 of the Constitution, the following article shall be inserted, namely:—

Insertion of new article 29A.

“29A. (1) Notwithstanding anything contained in this Part, the State may make provision for reservation in favour of persons belonging to economically weaker section of the society in all educational institutions under the State:

Reservation for economically weaker section of the society in all educational institutions.

Provided that the percentage of reservation shall not exceed twelve percent.

(2) The provisions of clause (1) shall have effect notwithstanding anything contained in any Judgement or decree or direction or order of any Court of Law or Tribunal or Authority having judicial powers to the contrary.

Explanation: For the purpose of this article,—

“persons belonging to economically weaker section of the society” means persons whose income from all sources is below rupees twelve thousand per annum but shall not include persons belonging to the Scheduled Castes, Scheduled Tribes and socially and educationally Backward Classes.”

STATEMENT OF OBJECTS AND REASONS

The people belonging to the economically weaker sections are not getting benefit of any reservation scheme. The poor amongst them are becoming poorer day by day. They cannot compete with others. It is, therefore, necessary to provide reservation in favour of those economically weaker sections of the society in posts and services and in all educational institutions under the State.

The Bill seeks to amend the Constitution with a view to making reservation for economically weaker sections without affecting the rights of the Scheduled Castes, Scheduled Tribes and Other Backward Classes.

Hence this Bill.

NEW DELHI;
November 19, 1999.

P. C. THOMAS

BILL NO. 30 OF 2000

A Bill further to amend the Indian Penal Code 1860.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Indian Penal Code (Amendment) Act, 2000.

Short title.

45 of 1860.

2. In section 21 of the Indian Penal Code after Explanation 3, the following Exception shall be added, namely:—

Amendment of section 21.

“Exception.— For the purposes of this Code, members of Parliament and State Legislatures shall not be deemed to be public servants.”.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court has in a number of cases held that members of Parliament and State Legislatures are public servants. Section 21 of the Indian Penal Code mentions the categories of persons who shall be deemed to be public servants. Members of Parliament and State Legislatures have not been specifically included in those categories. However, the decisions of the Supreme Court have changed this position. This has serious implications as the elected representatives are likely to be subjected to criminal investigation and punishment under the Prevention of Corruption Act in the course of discharge of their duties towards the people who have elected them. The basic difference between an elected representative who performs the public duty and an officer of the Government who performs within well defined public duties has to be understood. Otherwise, serious damage will be caused to public interest.

The proposed amendment to the Indian Penal Code takes care of this problem.

NEW DELHI;
January 28, 2000.

RAMESH CHENNITHALA

BILL No. 32 OF 2000

A Bill further to amend the Chief Election Commissioner and Other Election Commissioners (Conditions of Service) Act, 1991.

BE it enacted by Parliament in the Fifty-first Year of the Republic of India as follows:—

1. This Act may be called the Chief Election Commissioner and other Election Commissioners (Conditions of Service) (Amendment) Act, 2000.

Short title

2. In Chapter III of the Chief Election Commissioner and other Election Commissioners (Conditions of Service) Act, 1991, in section 10, in sub-section (3), the following proviso shall be added at the end, namely:—

Amendment of section 10.

“Provided that no decision taken on the basis of majority shall be deemed to be a decision of the Election Commission unless the Chief Election Commissioner is a party to such majority decision.”.

STATEMENT OF OBJECTS AND REASONS

The Supreme Court in *T. N. Seshan Vs Union of India and others* (1995/4 SCC 611) case held that the other Election Commissioners appointed under article 324 (2) have the same status as the Chief Election Commissioner. This would mean that a majority decision by the Election Commissioners will be the decision of the Commission. A decision only by the Election Commissioners to which the Chief Election Commissioner is not a party goes against the scheme of Election Commission envisaged under article 324(2) and (3). The Constituent Assembly debate on this article also indicates that there cannot be an Election Commission without the Chief Election Commissioner. This would imply that the participation of Chief Election Commissioner in the majority decision of the multi-member Commission is necessary. *T. N. Seshan* case altered this position which needs to be changed and the role of Chief Election Commissioner should be restored to the position of primacy in the Election Commission.

NEW DELHI;
January 28, 2000.

RAMESH CHENNITHALA

G.C. MALHOTRA,
Secretary-General,

